

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
DELETED PAGE INFORMATION SHEET
FOI/PA# 1185637-0

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SAC, WFO

6/18/74

SCS [REDACTED]

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b7C

**SENSITIVE COVERAGE PLACED AT THE
REQUEST OF THE WHITE HOUSE**

Shortly after 11:00 PM on Saturday, 6/15/74, I received a telephone call from former Assistant to the Director WILLIAM C. SULLIVAN. I was in bed and the conversation was brief. He said that he had received a visit from a Bureau representative who asked him about the circumstances which surrounded the installation of a tesur on MORTON HALPERIN which was in effect at about 6:00 PM on 5/9/69 when the Attorney General's authority was not received for the installation until Monday, 5/12/69. He asked if I had any recollection which would assist him. I responded by saying that I had been queried by Inspector [REDACTED] on Friday 6/14/74 and at his request I had also talked with former Supervisor ERNEST H. BELTER and Supervisor [REDACTED] for their recollection and further that I had suggested that SULLIVAN was the man who could answer those questions since I had no such knowledge. [REDACTED] who was in Associate Director CALLAHAN's office, commented that the Bureau was trying to reach SULLIVAN at that time.

b6
b7C

SULLIVAN, whose voice was very weak, talked about his recent heart attack and the fact that he was taking walks and he felt better. I told SULLIVAN that I had no information which could help his recollection or the Bureau because I was not privy to FBIHQ internal matters.

On the early evening of 6/17/74, SULLIVAN called again to my home and on this occasion he said that he was trying to reconstruct the events which transpired over the weekend of 5/9-12/69 and asked if I recalled any comments made to me about any conversations he had during that period with the Director or General HAIG of the White House. I commented in the negative. He went into detail about some internal Bureau correspondence and I interrupted him by saying I had no knowledge of this correspondence and that I merely carried out his instructions to institute whatever coverage he asked for and to see to it that the results were delivered to his office.

Above is for the record.

1 - WFO
1 - FBIHQ
CJJ:jak

**ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED**

DATE 5/10/82 BY 7858-se/cle/mrb

ENCLOSURE

65-75085-411

F B I

Date: 6/18/74

Transmit the following in _____
(Type in plaintext or code)Via AIRTEL _____
(Priority)

TO: DIRECTOR, FBI

FROM: SAC, WFO

ATTN: INSPECTION DIVISIONSENSITIVE COVERAGE PLACED AT THE
REQUEST OF THE WHITE HOUSE

Attached is memorandum from SA [REDACTED]
reflecting his conversations with former Assistant to the
Director, WILLIAM C. SULLIVAN concerning captioned matter.

b6
b7C

ALL INFORMATION CONTAINED
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DATE 5/6/82 BY 7858 SP/CLP/MLD/085

2 - Bureau
1 - WFO

(Enc. 1)

ENCLOSURE

CJJ:jak
(3)

18 JUL 24 1974

Approved: _____

Sent _____ M Per _____

JUL 31 1974 Special Agent in Charge

U.S. Government Printing Office: 1972 - 455-574

COPY RETAINED IN
PERSONNEL RECORDS UNIT

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. W. R. Wannall *wrw/TJS*

DATE: 6/28/74

FROM : Mr. T. J. Smith *TJS*

SUBJECT: ~~XONE SEVEN~~
17 WIRETAPS INSTALLED FOR
THE WHITE HOUSE
5/69 - 2/71

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Telephone Rm. _____
Director Sec'y _____

Relative to efforts being made to establish facts concerning installation of wiretap on Morton H. Halperin 5/9/69, when the wiretap was not approved, according to our records, until 5/12/69, the Director suggested that checks be made of toll call billings to and from FBIHQ during the pertinent period.

Computer Systems Division furnished copies of toll call billings for periods ending 4/24/69, 5/24/69, and 6/24/69, and I have thoroughly analyzed these billings. However, no information of pertinence was gleaned from these billings.

These records have been returned to the Computer Systems Division.

ACTION:

For record purposes.

- 1 - Mr. Campbell
- 1 - Mr. Wannall
- 1 - Mr. T.J. Smith

TJS:mah
(4)

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DATE 5/6/82 BY 7858-SR/def/ude

JUL 31 1974 *jam*

REC *jam*

65-75085-412

18 JUL 24 1974

5-TJS

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. W. R. Wannall

1 - Mr. J. B. Adams
1 - Mr. Mintz
1 - Mr. Wannall

DATE: 7/10/74

FROM : Mr. T. J. Smith *TJS*

SUBJECT: *SPERM*
ONE SEVEN
SEVENTEEN WIRETAPS OPERATED
FOR THE WHITE HOUSE BY THE
FBI BETWEEN 1969 AND 1971

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Director Sec'y _____

DC

On 7/9/74, Mr. James Wilderotter, Associate Deputy Attorney General, called me at home and requested information concerning above-captioned matter. He explained that the Attorney General had been asked to appear before the Senate Foreign Relations Committee at 10 a.m., 7/10/74, to testify concerning Dr. Henry Kissinger's involvement in captioned matter. He said that a list of questions the Attorney General would be asked had been received from the Committee and that he (Wilderotter) had been instructed to provide answers. He said that he had reviewed material we provided for release to the Committee, but wanted to see if I could help him.

He said that one of the questions was whether the Director's logs show a meeting between Mr. Hoover and Colonel Alexander Haig on 6/4/69. I told Wilderotter that I had not checked the logs for that date, but could do so early 7/10/74. I did check the logs and the Director's appointment book for 6/4/69, and there is no record of a meeting with Haig, but Mr. Hoover did have a meeting with Dr. Kissinger at 9:30 a.m., 6/4/69. This meeting was apparently set up the day before by Dr. Kissinger's secretary.

Another question concerned whether or not Mr. Hoover prepared a memorandum concerning a meeting he attended at the White House in 1970 during which he was informed that the reports relating to captioned matter should henceforth be forwarded to Mr. Haldeman instead of Dr. Kissinger.

I told Wilderotter I had no recollection of a memorandum by Mr. Hoover concerning this meeting or the change in instructions he mentioned. I said that I recalled there was a change in instructions about 1970 to send reports to Haldeman instead of Kissinger, but I did not recall just how the instructions were issued. I told him I would check this out also early on 7/10/74 and let him know.

TJS:mah
(4) *mah*

JUL 31 1974

65-75085-413
—CONTINUED—OVER

18 JUL 24 1974

ALL INFORMATION CONTAINED
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DATE 5/6/82 BY 7858-se/plc/jmk

Memorandum for Mr. Wannall
RE: SEVENTEEN WIRETAPS OPERATED
FOR THE WHITE HOUSE BY THE
FBI BETWEEN 1969 AND 1971

On 7/10/74 I checked our records and found that Mr. Hoover attended a meeting at the White House apparently on 5/13/70, and afterwards issued instructions to Mr. DeLoach which were in turn set forth in a memorandum to W. C. Sullivan on 5/13/70 by Mr. DeLoach. The instructions covered not only the reports to Kissinger but also matters relating to other investigative matters handled by the Intelligence Division.

Another question concerned whether or not any memoranda relating to meetings or discussions between Mr. Hoover and Dr. Kissinger had been destroyed. I told Wilderotter that we have absolutely no information to indicate any such memoranda have been destroyed. I pointed out that we have no way of knowing what documents were turned over to Robert C. Mardian by W. C. Sullivan in 1971; that there is a possibility that we did not get back from the White House all of the records which Sullivan had turned over to Mardian.

At 7:30 a. m. , 7/10/74, I called Wilderotter and furnished him the data described above.

ACTION:

For information and record purposes.

WBC
TJH
Jaw

waw

JAM
RFO

K

THE WHITE HOUSE
WASHINGTON

July 12, 1974

Lam
**ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED**

DATE 5/6/82 **BY** 7858-SEP/82/ndk

*OSPECIAL
File*

Dear Mr. Chairman:

Your letter of June 25 has been brought to my attention, and I welcome this opportunity to affirm my public statement of May 22, 1973, as quoted in your letter, and to add the following comments.

You appreciate, I am sure, the crucial importance of secrecy in negotiations with foreign countries. Without secret negotiations and essential confidentiality, the United States could not have secured a ceasefire in South Vietnam, opened relations with the People's Republic of China, or realized progress in our relations on the SALT negotiations with the Soviet Union. *Lam*

The circumstances that led to my decision to direct the initiation of an investigative program in 1969 are described in detail in the May 22 statement. I ordered the use of the most effective investigative procedures possible, including wiretaps, to deal with certain critically important national security problems. Where supporting evidence was available, I personally directed the surveillance, including wiretapping, of certain specific individuals.

DC Secretary of State

REC Lam

65-75085-413X

I am familiar with the testimony given by *Henry* Secretary Kissinger before your Committee to the effect that he performed the function, at my request, of furnishing information about individuals within investigative categories that I established so that an appropriate and effective investigation could be conducted in each case. This testimony is entirely correct; and I wish to

16 SEP 30 1974

*Received 7/15/74 from
Senator J.W. Fulbright
Senate Foreign Relations Committee
TJS -*

File - 5 - TJS

65-75085

ENCLOSURE
SEP 30 1974

UNITED STATES GOVERNMENT

Memorandum

TO : MR. CALLAHAN

FROM : H. N. BASSETT

SUBJECT: 17 WIRETAPS OPERATED FOR THE WHITE HOUSE
BY THE FBI BETWEEN MAY, 1969, AND FEBRUARY, 1971

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Director Sec'y _____

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DATE 5/6/82 BY 7858 sep/c/mk
SP6 Bja/mk 12/6/89 302920

Interviews of certain present and former Bureau employees were conducted by Inspection Staff personnel regarding the knowledge these personnel have of the circumstances surrounding the placing of electronic surveillance coverage on Morton Halperin. Authority for this coverage was secured from the Attorney General on 5/12/69 whereas a log from our Washington Field Office (WFO) indicated such coverage was initiated on 5/9/69.

Pertinent information developed from these interviews along with pertinent copies of FD-302s were furnished to the Attorney General by memorandum dated 6/24/74.

Attached are the originals of the FD-302s involved together with copies thereof. These FD-302s pertain to interviews of the following individuals:

Ernest H. Belter, retired Special Agent, WFO
Cartha D. DeLoach, former Assistant to the Director
Supervisor [redacted] WFO
Miss Helen Gandy, former Executive Assistant to Mr. Hoover
Supervisor [redacted] WFO
Miss [redacted] Administrative Assistant to the Director
Mrs. [redacted] Administrative Assistant to the Director
John P. Mohr, former Assistant to the Director
Miss [redacted] Administrative Assistant in the Office
of the Director

William C. Sullivan, former Assistant to the Director

Also attached is a copy of a memorandum from Supervisor [redacted] WFO, to SAC, WFO, which was forwarded to the Bureau by attached airtel 6/18/74. This memorandum sets forth information regarding telephone calls made to Supervisor [redacted] by William C. Sullivan in which Sullivan inquired regarding circumstances surrounding the placing of electronic surveillance coverage on Halperin.

RECOMMENDATION: That the attached documents be forwarded to the Intelligence Division for appropriate filing.

Enclosures

1 - Mr. Wannall 1 - Mr. Gebhardt

JJD:gms
JUL 31 1974

file 65-75085

5 - [signature]

COPY RETAINED IN
PERSONNEL RECORDS UNIT

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b7C

1 - Mr. J. B. Adams
1 - Mr. J. A. Mintz
1 - Mr. W. R. Wannall

The Deputy Attorney General

July 18, 1974

Director, FBI

SEVENTEEN WIRETAPS OPERATED
FOR THE WHITE HOUSE BY THE
FBI BETWEEN MAY, 1969, AND
FEBRUARY, 1971

0 SPEC OV

This will confirm instructions given telephonically to Inspector Thomas J. Smith, July 17, 1974, by Associate Deputy Attorney General James Wilderotter to grant access to FBI records relating to captioned matter by Mr. George "Skip" Williams, Office of Counsel to the President.

Mr. Wilderotter advised that Judge John Lewis Smith, U. S. District Court, has modified the protective order currently in effect regarding the wiretap records to permit access by General Alexander M. Haig, who is a defendant in the civil suit involving Morton H. Halperin, plaintiff, and who will be a witness before the Senate Foreign Relations Committee concerning the captioned matter.

Mr. Wilderotter said that Mr. Williams will contact Inspector Smith directly to arrange to review the records. In accordance with Mr. Wilderotter's instructions, we will permit Mr. Williams to review the above-mentioned records.

TJS:vb
(6)

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DATE 5/6/82 BY 7858 SR/cl/mde

REC for

Jan/pt

TJS
65-75085-415

18 JUL 24 1974

File
65-75085

*Delivered to
James Wilderotter's
Sec'y, Rm 4308, D.B.
7-18-74
JWS*

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JUL 31 1974

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Panel's Wiretap Probe Seen Ending This Month

By Marilyn Berger
 Washington Post Staff Writer

Sen. J. W. Fulbright (D-Ark.) yesterday said he expected the Foreign Relations Committee to complete its inquiry into the role of Secretary of State Henry A. Kissinger in the wiretapping controversy by the end of July and to open hearings in August designed to touch off a national debate on Soviet detente.

The committee chairman spoke following a closed meeting in which Kissinger reported on the Moscow summit and on his subsequent talks in European capitals.

Fulbright said he was convinced of the "overwhelming urgency of pursuing detente. If we allow it to lapse it would be a great disaster for all the countries."

Kissinger, who has called for a national debate on detente, was asked whether he agreed with Fulbright that hawks in Congress, including Sen. Henry M. Jackson (D-Wash.), were destroying the policy of detente. He replied, "I agree with Senator Fulbright about the overwhelming importance of detente because if this policy is inter-

rupted it will not be easy to restore it again." But he added that debate is "essential in a democracy."

Fulbright and Jackson have been in a sometimes angry, long-distance dialogue about the meaning of detente, with Jackson suspicious of Soviet motives and Fulbright favoring a fuller relationship.

Sen. Jacob K. Javits (R-N.Y.) said he urged the administration to go in a major way into the financial problems surrounding the United States and the world. He said the "crisis of confidence" was so serious that it had become a major foreign policy problem. Kissinger acknowledged that the issue was discussed.

On the wiretapping inquiry, Fulbright said President Nixon's chief of staff, Gen. Alexander M. Haig, told him he would testify when he returns from San Clemente. Fulbright said that testimony would come July 30 or 31, and Haig probably would be the last witness.

Kissinger, Fulbright said, would testify July 20 or 21.

The Washington Post A-2
 Washington Star-News _____
 Daily News (New York) _____
 The New York Times _____
 The Wall Street Journal _____
 The National Observer _____
 The Los Angeles Times _____

Date JUL 12 1974

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DATE 5/6/82 BY 7858 SR/clf/nrk

62-15855-A-
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JUL 29 1974

JUL 31 1974 *Jim*

SAXBE SUGGESTS KISSINGER WAS 'USED' BY HOOVER

WASHINGTON (UPI)—Atty. Gen. William B. Saxbe said Wednesday that J. Edgar Hoover might have used Henry A. Kissinger as an unwitting front for Hoover's own wiretaps of White House enemies.

Two senators said Saxbe might be right—a conclusion which, if endorsed by the Senate Foreign Relations Committee, could help to exonerate Kissinger of the charge that he was an instigator of the 1971 wiretappings.

Saxbe was the first witness in the committee's hearings on whether Kissinger testified accurately at his 1973 confirmation hearings that he did not order wiretaps by the White House "plumbers" and did not even know the plumbers existed.

Kissinger demanded that the hearings be held to clear his name of suggestions to the contrary, and he threatened to resign otherwise.

Saxbe told newsmen he had brought to the committee all the Justice Department files on the wiretapping operation and the plumbers' investigative unit, most of them "narrative forms" written by the late Hoover when he was FBI director.

Saxbe said he thought Hoover might have used Kissinger's name as the "initiator" of some of the wiretaps of newsmen and White House aides without Kissinger's knowledge.

"It would be entirely reasonable for Mr. Kissinger not to know he was being used in this manner," Saxbe said. "Hoover could have been acting on his own initiative."

Sens. Clifford P. Case (R-N.J.) and Charles H. Percy (R-Ill.), both committee members, supported Saxbe's theory.

"The way (Hoover) operated leads me to believe that, other than the President, no one could ever tell Hoover what to do if he felt something might be in the national interest," Percy said. "No attorney general or secretary of state ever told Hoover what to do."

"I believe he shared some responsibility on this. I think we are going to prove a pattern."

Case said: "The fact that a statement on an FBI record said that so-and-so requested a wiretap did not necessarily prove where that request originated."

Chairman J. William Fulbright (D-Ark.) said the hearings were not concerned with the legality of the taps or the plumbers' operations but only whether Kissinger lied about his knowledge or involvement in them.

"The central issue, for me, is whether or not he, in a significant way, has misrepresented to the committee his role, and following that, would it have disqualified him from being secretary of state?"

Fulbright also expressed displeasure with President Nixon and Gen. Alexander M. Haig, Jr., his chief of staff, for failing to answer Fulbright's requests to provide the committee with background information about the plumbers.

He said he wrote Mr. Nixon on June 25 requesting a written response from the President and a personal appearance by

Haig, who was Kissinger's assistant on the National Security Council at the time of the wiretapping. "They have not responded," Fulbright said. Later White House press aide Gerald L. Warren said, "Gen. Haig will be willing to testify and will be in contact with Chairman Fulbright to work out the timing."

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The Washington Post _____
Washington Star-News _____
Daily News (New York) _____
The New York Times _____
The Wall Street Journal _____
The National Observer _____
The Los Angeles Times P71, P1

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 Director Sec'y _____

Dear Mr. Kelly:

5/11/69	Memo from Sullivan to DeLoach	65-75085-264
5/29/69	Memo from Sullivan to DeLoach	65-75085-266
8/1/69	Memo from Sullivan to DeLoach	65-75085-273
5/20/69	Memo from Sullivan to DeLoach	65-75085-276
5/3/70	Memo from Sullivan to DeLoach	65-75085-288
5/13/70	Memo from Sullivan to DeLoach	65-75085-295
6/3/69	Memo from Sullivan to DeLoach	65-75085-36
5/20/69	Letter from Sullivan to Hoover	65-75085-308
5/29/69	Letter from Sullivan to Hoover	65-75085-311
6/2/69	Memo from Sullivan to DeLoach	65-75085-312
7/8/69	Letter from Sullivan to Hoover	65-75085-313
6/20/69	Memo from Sullivan to DeLoach	65-75085-314
5/13/70	Memo from DeLoach to Sullivan	65-75085-324
9/15/69	Memo from Director, FBI to AG	65-75085-320

5/11/73 FD 302 of Alexander Haig's interview.

Thanking you for your assistance, I am

Very truly yours,

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DATE 5/6/82 BY 7858-se/clp/ndk

George P. Williams

George P. Williams
Associate Counsel to the President

Clarence M. Kelly
Director
Federal Bureau of Investigation
9th & Pennsylvania Avenue, N. W.
Washington, D. C. 20535

18 JUL 26 1974

JUL 31 1974

FEDERAL BUREAU OF INVESTIGATION
LEGAL COUNSEL

7/22

, 1974

Director	Mr. Herington, 5640	Miss Devine, 5640
Mr. Callahan	Mr. Hotis, 5236	Miss Hardy, 5640
Mr. Jenkins		Miss Croghan, 5236
Mr. Adams	Mr. Olmert, 5236	Miss Hughes, 5236
Mr. Bassett	Mr. Peterson, 5236	Miss Kircher, 5236
Mr. Cleveland		Mrs. Laughland, 5236
Mr. Decker	Mr. Donahue, 5236	
Mr. Gebhardt	Mr. Blunt, 5236	Miss Cole, 4706
Mr. Jacobson	Mr. Laturno, 5236	Mrs. Daniello, 4706
Mr. Jamieson		Mr. Iazzetta, 4706
Mr. McDermott	Mr. Farrington, 4706	Miss Skrak, 4706
Mr. Marshall	Mr. Dennis, 4706	Mrs. Wolesslagle, 4706
Mr. Mintz	Mr. McCreight, 4706	
Mr. Thompson		See Me, Please
Mr. Walsh	Mr. Donelan, Quantico	Call Me, Please
Mr. Wannall	Mr. Boutwell, Quantico	
Mr. White	Mr. Burke, Quantico	
	Mr. McLaughlin, Quantico	Note & Return
Mr. Brownfield	Mr. J. D. Miller, Quantico	For Approp. Action
Mr. Coleman	Mr. Rissler, Quantico	Mail Room, 5531
Mr. Reed	Mr. E. J. Still, 6139 IB	Corres. Review, 5533
Mrs. Metcalf		Place on Record & Return

Please cover the "See me pls"

in your memo.

Thanks.

Done

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DATE 5/6/82 BY 7858-SR/cle/jude

Legal Counsel
Room 5640, Ext. 2676

1 - Mr. J. A. Mintz
1 - Mr. J. B. Adams
1 - Mr. W. R. Wannall
1 - Mr. A. B. Fulton

July 23, 1974

Jan
REC
The Attorney General
65-75085-417
Director, FBI

JUNE

ELECTRONIC COVERAGE PLACED AT
THE REQUEST OF THE WHITE HOUSE

Reference is made to the letter of Deputy Attorney General Laurence Silberman dated July 22, 1974, captioned "FBI Documents" authorizing this Bureau to furnish Mr. George Williams, Office of the Counsel to the President, with documents relating to national security electronic surveillances undertaken beginning in 1969.

Pursuant to this authorization, Mr. Williams was furnished with the requested documents by letter dated July 23, 1974. In addition, he was also furnished a copy of a memorandum from W. C. Sullivan to Mr. C. D. DeLoach dated May 28, 1969, which was also pertinent to his request.

Copies of the documents furnished to the White House are attached hereto.

Enclosures - 16

1 - The Deputy Attorney General (Enclosures - 16)

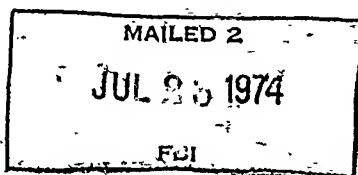
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NOTE:

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DATE 5/7/82 BY 7858-SR/CLF/mk**

See letter to Mr. George P. Williams, Associate Counsel to the President, dated 7/23/74, prepared by RHH:rfk.

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Spec. Inv. _____
Training _____
Legal Coun. _____
Telephone Rm. _____
Director Sec'y _____



JUL 31 1974
MAIL ROOM ☐

TELETYPE UNIT ☐

WPKW/TJS
5-18
65-75085

1 - Mr. J. A. Mintz
1 - Mr. J. B. Adams
1 - Mr. W. R. Wannall
1 - Mr. A. B. Fulton

July 23, 1974

BY LIAISON

REC:jam

65-75085-417

Mr. George P. Williams
Associate Counsel to the President
The White House
Washington, D. C.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

DATE 5/7/82 BY 7858 SR/plf/ade

Dear Mr. Williams:

Reference is made to your letter of July 22, 1974, requesting certain documents relating to electronic surveillances conducted by this Bureau.

Enclosed herewith is one copy each of the 15 requested documents.

I am also enclosing one copy of a memorandum from Mr. W. C. Sullivan to Mr. C. D. DeLoach of this Bureau dated May 28, 1969, which I feel is also pertinent to your request.

Sincerely yours,

Clarence M. Kelley
Clarence M. Kelley
Director

Enclosures - 16

16- ENCLOSURE jam
RHH:rfrk (6)

NOTE: rfrk

On receipt of Mr. William's letter, the Director conferred with the Office of Legal Counsel (Mr. Mintz) who concurred that, with the authority of the Department, the requested documents could be furnished to the White House.

By memorandum dated 7/22/74 from the Deputy Attorney General captioned "FBI Documents," a copy of which is attached, authorization was received to furnish the documents to Mr. Williams.

MAIL ROOM ☐

TELETYPE UNIT ☐

NOTE CONTINUED PAGE TWO

Assoc. Dir. _____
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Telephone Rm. _____
Director Sec'y _____

WRW/TIS
65-75085

Mr. George P. Williams
Associate Counsel to the President

NOTE CONTINUED:

In addition to the document identified above, the following serials of 65-75085 were submitted to the White House: 36, 264, 266, 273, 276, 288, 295, 308, 311, 312, 313, 314, 320, 324 and the FD-302 reflecting interview of General Haig. The above-mentioned memorandum of 5/28/69 is serial 309. No enclosures to these memoranda were included except routing slips attached to the documents. Mr. Williams advised SA Horner on 7/22/74 that he did not need the enclosures to the documents.

A memorandum forwarding copies of the documents sent to the White House is being sent to the Attorney General.

All of the above documents relate to electronic surveillance coverage placed at the request of the White House, Bureau file 65-75085 (SPECOV).

UNITED STATES GOVERNMENT

DEPARTMENT OF JUSTICE

Memorandum

ALL FBI INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 09-22-2011 BY 60322 UC/LP/PLJ/JCF

TO : Clarence M. Kelley
Director
Federal Bureau of Investigation

DATE: July 22, 1974

FROM : Laurence H. Silberman
Deputy Attorney General

SUBJECT: FBI Documents

Handwritten: R/S
SPECOV

Pursuant to your request concerning release of copies of FBI documents to Mr. George Williams, Office of the Counsel to the President, relating to the National Security Wiretaps undertaken beginning in 1969, you are authorized to furnish Mr. Williams with copies of the documents he requested.

Handwritten: lam

Handwritten: Lett to Williams
+ to AG
7-23-74
RHS!

Handwritten: REC/pm

Handwritten: 65-75085-417

18 JUL 26 1974

Handwritten signature/initials

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 09-22-2011 BY 60322 UC/LP/PLJ/JCF

~~CLASSIFIED INFORMATION ENCLOSED~~



65-75085 417

Assistant Attorney General
Criminal Division

July 25, 1974

Director, FBI

1 - Mr. Wannall
Attn.: Mr. T. J. Smith
2 - Mr. Mintz
1 - Mr. Peterson

MORTON H. HALPERIN, et al., v.
HENRY A. KISSINGER, et al.
(U.S.D.C., D.C.)
CIVIL ACTION NO. 1187-73

PERSON

Reference is made to your memorandum of July 1, 1974, which enclosed correspondence from plaintiffs' attorney requesting additional documents in captioned matter pursuant to the Court's discovery order of April 1, 1974. You advised such documents, if available, were subject to production under the above Court order.

You requested our review of the enclosed correspondence and that you be furnished all documents relating to items 1, 2, 5, 6, 9, 10, 11, and 12. We were also requested to advise if, in our view, any such document is subject to a claim of Executive privilege.

We find no basis for a claim of Executive privilege as to any of the documents in our possession. However, certain information is not relevant to plaintiffs' case and is therefore subject to excision. In this regard, where the requested document is available we have enclosed a copy as it appears in our files with certain exceptions. Also enclosed are excised copies for your files and for the plaintiffs. The following comments are directed to and are correlated with the numbered paragraphs of plaintiffs' correspondence which pertain to this Bureau.

1) The index of those overheard on wiretaps instituted at the request of the White House from May, 1969, to February, 1971, was reviewed to include all those overheard with the surname Halperin and included those referred to by first names only of Mort, Morton: [redacted] (possible reference to Mrs. [redacted]); and [redacted] (possible reference to the Halperin children). Three were located wherein Morton Halperin or his wife are overheard on logs other than those previously furnished. They

b6
b7C

RFP:mbk
(7)

65-75085-
NOT RECORDED

(See NOTE last page) JUL 31 1974

(Bufile 65-75085)

INTELLIGENCE DIVISION - HOLD COPY

JUL 31 1974

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 5/7/82 BY 785832/clp/urde

**Assistant Attorney General
Criminal Division**

Sealed pursuant to U.S. Court Order

involved calls [REDACTED]
[REDACTED]

OTHER

We enclose an original copy of each of the above logs and also excised copies for your files and for transmittal to the plaintiffs.

2) The first part of this item is nonspecific and the information requested is unclear. The second part of this item appears not relevant to plaintiffs' case; therefore, pending further clarification of this request no material is being submitted.

5) Plaintiffs were previously furnished with serial 30 which is a record of a phone conversation between Mr. Hoover and Dr. Kissinger on May 9, 1969, at 5:05 p. m. On the same date, four other memoranda were written with regard to initiating investigative steps to determine the origin of the leaks to the press of sensitive National Security Council information. Enclosed are copies of the above-described memoranda. As you will note, we have excised certain information from the memoranda written by Mr. Hoover at 11:35 a. m. and 1:05 p. m. This information would identify confidential Bureau sources and investigative techniques other than the use of electronic surveillance to identify the possible leak to the press. We deem it essential that this information remain within the Bureau.

6) This item requests any memorandum Director Hoover prepared regarding his meeting with the President and other White House officials during May, 1970, which is enclosed. We have excised both copies (the Department's copy and the copy for the plaintiffs) of this memorandum because it contains information which we assure you is totally unrelated to the plaintiffs' case.

9) The photographs of plaintiff Halperin taken on August 6, 1969, indicate physical surveillance on that date; however, no records have been located to verify its institution, maintenance, or termination. It is noted that the Halperin log [REDACTED]
[REDACTED]

OTHER

**Assistant Attorney General
Criminal Division**

Sealed pursuant to U.S. Court Order

[redacted]
In addition, the blind memorandum undated captioned "Dr. Morton Halperin, National Security Council," establishes that a physical surveillance was, in fact, conducted and photographs taken. It appears likely the surveillance was conducted only to verify [redacted] [redacted] did take place. Both the photographs and blind memorandum referred to above were previously furnished the Court.

OTHER

10) No additional information is available concerning this memorandum. It is noted that it was found among loose documents at the White House by Bureau personnel on May 12, 1973, and is described in the inventory attached to the Smith to Miller memorandum of May 13, 1973, as "Thin memo first page only re Morton Halperin 6/15/71."

11) There are no documents related to the blind memorandum of February 26, 1973. This memorandum was prepared in the form furnished to the Court without cover or other descriptive or administrative documents.

12) The Halperin log, page 498, indicated notations on two entries that they be included; however, a search of summaries fails to indicate any such information was ever included in summaries to the White House.

Enclosures (16)

NOTE: Plaintiffs' additional request for documents has been discussed with Mr. [redacted] of the Department and it was concluded that the information sought which is available is within the Court's discovery order of 4-1-72. Information not relevant to plaintiffs' case has been excised and in certain instances where the documents contain information which OLC believes should be kept within the Bureau, the Department's copy has also been excised. This request has been coordinated with the Intelligence Division and no other copies of the information furnished the Department have been retained with the

b6
b7C

**Assistant Attorney General
Criminal Division**

NOTE (continued)

exception of the complete set of the material for record purposes forwarded separately to the Intelligence Division's Special File Room.

ALL INFORMATION CONTAINED

HEREIN IS UNCLASSIFIED

DATE 5/7/82 BY 7858-SR/dejude

ENCLOSURE

65-75085-

1 - Mr. J.B. Adams
1 - Mr. Wannall
1 - Mr. Mintz
1 - Mr. Bowers

July 29, 1974

BY LIAISON

Lam
REC
65-75025-418
Mr. Norvill Jones
Staff Associate
Committee on Foreign Relations
United States Senate
Washington, D. C.

Dear Mr. Jones:

At the close of my testimony before the Committee on Foreign Relations on July 15, 1974, Senator Fulbright mentioned that he had a list of additional questions which the Committee would appreciate having answered for the record. Your letter of July 17, 1974, enclosed the list of questions referred to by Senator Fulbright.

In response to Senator Fulbright's request, there is attached hereto the list of questions enclosed with your letter with appropriate answers for the record. I suggest that you contact Mr. James B. Adams, Deputy Associate Director, directly if we can be of further assistance to you in this matter.

Sincerely yours,

12m
1- ENCLOSURE
Clarence M. Kelley
Director

Enclosure

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 5/7/82 BY 7858 SP/elt/mde TJS

TJS:mah
(6) *mah*

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Legal Coun. _____
Telephone Rm. _____
Director Sec'y _____

AUG 1 1974 *12m*
MAIL ROOM ☐

TELETYPE UNIT ☐

John
Delivered to Jones
7-30-74 BT

QUESTIONS SUBMITTED TO
FBI DIRECTOR CLARENCE KELLEY BY
THE SENATE COMMITTEE ON FOREIGN
RELATIONS

QUESTION 1:

Do you think these documents present the full picture of Dr. Kissinger's role in the wiretap operation?

ANSWER:

The FBI is not in a position to assess Dr. Kissinger's complete role in the wiretap operation. However, there is nothing contained in the documents we have concerning the wiretaps which appears inconsistent with the statement of the President on July 12, 1971, as to the initiation of the wiretaps.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED

DATE 5/7/82 BY 7858-se/clj/mde

QUESTION 2:

Would you describe briefly for the record the events concerning the handling of these documents during the time they were found in Mr. Ehrlichman's safe in the White House last year?

ANSWER:

Upon learning from Mr. John Ehrlichman that the documents had been in his possession prior to April 30, 1973, and from General Alexander Haig that the records were in the White House as of May 11, 1973, arrangements were made by former Acting Director William D. Ruckelshaus to take possession of the records on May 12, 1973. Mr. Ruckelshaus and Inspector Thomas J. Smith met Mr. Leonard Garment and Mr. Fred Buzhardt at the

65-75085-418

ENCLOSURE

White House on May 12, 1973, and Mr. Buzhardt escorted them to a vault-office on the ground floor which is under protection of the U.S. Secret Service. Mr. Buzhardt located two boxes, sealed with tape and turned them over to Inspector Smith, with the request that each box be inventoried and that a copy of the inventory be given to Mr. Garment as a receipt.

Inspector Smith inventoried the contents of the two boxes, listing all records therein, in the presence of a Secret Service agent and a female employee of the White House staff who had joint responsibility for access to the vault-office.

Upon completion of the inventory, the original was turned over to Mr. Garment and copies retained for the FBI. The records were then taken by Inspector Smith to the Intelligence Division at the Federal Triangle Building, Washington, D. C., where they have remained since that time under Inspector Smith's custody and control. The originals of many of the documents, however, are impounded by U.S. District Court, Washington, D. C., in accordance with the order of Judge John Lewis Smith.

QUESTION 3:

(a) Has the FBI made any analysis of the documents to try to determine what, if anything, may be missing that would normally be expected to be in the files, in keeping with Mr. Hoover's work habits and regular FBI procedures? If so, would you furnish a copy to the Committee?

(b) Do you suspect that some records have been lost or were deliberately destroyed?

ANSWER:

(a) The FBI has conducted a thorough analysis of the documents recovered from the White House, but not for the specific purpose of detecting whether any records might be missing that normally would be expected in the files. In the process of analyzing the documents for other purposes, it has been found that copies of documents normally retained as record of action were apparently not retained in one or two instances. Some periods of time in the logs of telephone monitoring are not accounted for. One telephone call made during the pertinent period (according to telephone toll records) was not logged even though one of the telephones was tapped at the time. There is a log on that date, but no entry for the call in question. There are other examples which could possibly create suspicion that some records are missing.

The most notable examples are the facts relating to a J. Edgar Hoover meeting with the President at Camp David on April 25, 1969; a telephone call from the President to Mr. Hoover at Mr. Hoover's residence on May 2, 1969; and a meeting between Mr. Hoover and Dr. Kissinger in Mr. Hoover's office on May 5, 1969. Mr. Hoover usually recorded in memorandum form substance of such meetings or phone calls, and we have been unable to locate any such record in FBI files. If these meetings and that phone call had related to the use of wiretaps in connection with White House leaks, we think any memoranda prepared by Mr. Hoover would or should have been kept with other memoranda and documents concerning the same matter.

We, of course, have nothing of record to indicate what the substance of these meetings and telephone call might have been. These could have dealt with matters entirely unrelated to leaks or wiretaps. However, Mr. W. C. Sullivan, in a recent interview, recalls Mr. Hoover showing him memoranda relating to both the Camp David meeting on April 25, 1969, and the Hoover-Kissinger meeting on May 5, 1969. One memorandum contained information concerning discussion at Camp David and included the topic of White House leaks. The other memorandum, according to Sullivan, concerned a request by Dr. Kissinger for use of wiretaps regarding the leaks.

(b) Based on the habit of Mr. Hoover to make a record of his conversations with prominent persons or concerning significant matters, coupled with

the recent recollection of Mr. Sullivan, there is a basis for believing that memoranda may have been prepared although we have been unable to locate them. We are not in a position, however, to make any allegation that such memoranda have been deliberately destroyed. No written analysis has been made other than reports of interviews of Mr. Sullivan which we assume have been furnished to you by the Department of Justice.

QUESTION 4:

(a) Was Mr. Hoover in the habit of making a record for his files of his meetings or telephone conversations with the President?

(b) Were there facilities in Mr. Hoover's office to record conversations?

(c) Were Mr. Hoover's office conversations or his telephone conversations ever recorded, particularly those with the President?

(d) Are there any recordings or additional memoranda of conversations that the FBI is aware of which would be helpful in shedding additional light on this subject, particularly as to the events surrounding the initiation of the program?

(e) Why do you suppose that the FBI files do not contain any memoranda of Mr. Hoover's conversations or meetings with the President pertaining to the wiretap program?

ANSWER:

(a) Mr. Hoover was in the habit of making a record for his files of his meetings and telephone conversations with the President.

(b) There were no facilities in Mr. Hoover's office to record conversations mechanically or electronically.

(c) Neither Mr. Hoover's office conversations nor his telephone conversations were recorded by electronic or mechanical devices. However,

Mr. Hoover on occasion had conversations monitored by secretarial personnel who took down the conversation in shorthand and thereafter prepared memoranda containing the substance of the conversation. Such memoranda appeared in the first and third person as though dictated from notes by Mr. Hoover.

(d) Although diligent search has been made of FBI files, we have been unable to locate any records or additional memoranda of conversations which relate in any way to this subject, either before or after the initiation of the program.

(e) We are unable to provide the answer concerning why FBI files do not contain memoranda of Mr. Hoover's conversations or meetings with the President pertaining to the wiretap program. He may have decided not to prepare memoranda in view of the sensitive nature of the undertaking or may have prepared memoranda which cannot now be located.

QUESTION 5:

Do you know if Dr. Kissinger had an opportunity to see all of the documents which have now been furnished to the Committee before his testimony during his confirmation hearing last September?

ANSWER:

We understand that Dr. Kissinger's attorney or legal advisor was furnished a copy of all the documents which were furnished to the Committee, but not until a few days before the current Committee hearing. Dr. Kissinger did not have access to any of the documents in possession of the FBI, before or during his testimony during his confirmation hearing last September.

QUESTION 6:

Mr. Hoover's office calendar shows that he and Mr. Mitchell had dinner with the President at Camp David on April 25, 1969. (a) Do the records indicate whether they left from the White House? (b) Is there any indication that there was a discussion at the White House before they left concerning news leaks and possible use of wiretaps?

ANSWER:

The FBI has been unable to locate any record which would indicate how Mr. Hoover traveled to Camp David on 4/25/69. There is no record concerning any discussions held before, during or after the Camp David meeting on any subject matter.

QUESTION 7:

(a) How do you account for the fact that the wiretap on Halperin began on May 9 but the Attorney General did not sign the approval until 5:48 p.m. on May 12?

(b) The Committee staff was told by the telephone company that they do not have any records to show when the taps were put on or taken off. Is it possible that all four of the wiretaps were installed before the Attorney General approved them?

ANSWER:

(a) Although we have made extensive inquiry, we have not been able to determine the facts surrounding the installation of the wiretap on Morton H. Halperin on 5/9/69, whereas the Attorney General did not sign the approval until 5/12/69. However, as a matter of pertinence it

should be pointed out that if the President had ordered a wiretap on Halperin on 5/9/69, the FBI technically did not require separate approval from the Attorney General, since the authority for installation of such a wiretap originates with the President, not the Attorney General. Mr. Hoover insisted on the formality of having the Attorney General approve such wiretaps, even though such approval was legally redundant.

(b) While it is possible that such occurred, the logs showing the interceptions do not record any interceptions until after 5/12/69 on the other three wiretaps.

QUESTION 3:

Mr. Sullivan's memo of May 11, concerning the first four wiretaps, stated that Colonel Haig did not want any "formal dissemination of the results of our coverage to his office. Instead, he will come to my office to review the information developed, which will enable us to maintain tight control of it." Yet on May 28 the first of a series of letter reports started flowing from Hoover to Kissinger reporting information from the taps.

Why was this change in handling made?

ANSWER:

While it is true that, according to the 5/11/69 memorandum of Mr. Sullivan Colonel Haig did not desire any "formal dissemination" of the coverage, there was obviously some change in instructions concerning the reporting of the coverage. Such change in handling, speculatively, could have been a result of unrecorded oral request from Colonel Haig or Dr. Kissinger.

or it could have been based on unrecorded unilateral instructions of Mr. Hoover. Sullivan to DeLoach memorandum dated May 28, 1969, indicates the instructions did come from Mr. Hoover; however, whatever his reasons might have been, they are not recorded.

QUESTION 9:

Does the FBI have in its files any documents setting forth the "investigative categories" which President Nixon, in his letter of July 12, said that he established?

ANSWER:

The FBI does not have in its files any documents setting forth the "investigative categories" which the President, in his letter of July 12, 1972, said he had established. We are unable to offer any clarification as to the meaning or significance of this phrase.

QUESTION 10:

The December 29, 1969, memorandum from Sullivan to DeLoach concerning conversations involving Clark Clifford contains a handwritten note "Suggest A.G. (Attorney General) be advised." Why would the Attorney General be advised when he did not normally get these reports?

ANSWER:

As a matter of fact, the Attorney General was receiving copies of reports being sent to the White House concerning some of the wiretap coverage. The handwritten note on the December 29, 1969, memorandum in question was obviously the personal suggestion of the official writing the note (believed to be Mr. DeLoach) and his motive is not known to us.

QUESTION 11:

There were many summary reports by letter to Dr. Kissinger which were hand delivered to the White House. Who were these reports given to in Dr. Kissinger's office?

ANSWER:

These were handed to the secretary in Dr. Kissinger's office.

J. V. FULBRIGHT, ARK., CHAIRMAN
JOHN SPARKMAN, ALA.
MIKE MANSFIELD, MONT.
FRANK CHURCH, IDAHO
STUART SYMINGTON, MO.
CLAIBORNE PELL, R.I.
GALE W. MCGEE, WYO.
EDMUND S. MUSKIE, MAINE
GEORGE MCGOVERN, S. DAK.
HUBERT H. HUMPHREY, MINN.

GEORGE D. AIKEN, N.H.
CLIFFORD P. CASE, N.J.
JACOB K. JAVITS, N.Y.
HUGH SCOTT, PA.
JAMES B. PEARSON, KANS.
CHARLES H. PERCY, ILL.
ROBERT P. GRIFFIN, MICH.

PAT M. HOLT, CHIEF OF STAFF
ARTHUR M. KUHLMAN, CHIEF CLERK.

United States Senate

COMMITTEE ON FOREIGN RELATIONS
WASHINGTON, D.C. 20510

July 17, 1974

CONFIDENTIAL (when attached to enclosure)

Mr. James Adams
Assistant to the Director
Deputy Associate Director
Department of Justice
Washington, D. C.

OSPECOV

Dear Mr. Adams:

DECLASSIFIED BY 7858 SP/de/pude
ON 5/7/82

Pursuant to the Chairman's discussion with Mr. Kelley at the close of the meeting on Monday, there are enclosed a list of questions which the Committee would appreciate having answered for the record.

Thank you for your cooperation on this. If you have any questions about this or any other matter, please do not hesitate to give me a call on 225-4618.

Sincerely yours,

Norvill Jones
Norvill Jones
Staff Associate

REC-100

1 - *Lam*
ENCLOSURE
NJ:ab

Enclosure.

65-75085-418

3 AUG 1 1974

65-75085
FIVE

*Let Norvill Jones (Enc)
7/25/74
TJS:mah*

~~TOP SECRET~~

DECLASSIFIED BY 7858 SR/clj/rde
ON 5/7/82

*QUESTIONS SUBMITTED TO
FBI DIRECTOR CLARENCE KELLEY BY THE
SENATE COMMITTEE ON FOREIGN RELATIONS

DC

1. Do you think these documents present the full picture of Dr. Kissinger's role in the wiretap operation?

DC

2. Would you describe briefly for the record the events concerning the handling of these documents during the time they were found in Mr. Ehrlichman's safe in the White House last year?

3.(a) Has the FBI made any analysis of the documents to try to determine what, if anything, may be missing that would normally be expected to be in the files, in keeping with Mr. Hoover's work habits and regular FBI procedures? If so, would you furnish a copy to the Committee?

(b) Do you suspect that some records have been lost or were deliberately destroyed?

4.(a) Was Mr. Hoover in the habit of making a record for his files of his meetings or telephone conversations with the President?

(b) Were there facilities in Mr. Hoover's office to record conversations?

(c) Were Mr. Hoover's office conversations or his telephone conversations ever recorded, particularly those with the President?

(d) Are there any recordings or additional memoranda of conversations that the FBI is aware of which would be helpful in shedding additional light on this subject, particularly as to the events surrounding the initiation of the program?

(e) Why do you suppose that the FBI files do not contain any memoranda of Mr. Hoover's conversations or meetings with the President pertaining to the wiretap program?

~~TOP SECRET~~

ENCLOSURE 65-75085-418

~~TOP SECRET~~

-2-

5. Do you know if Dr. Kissinger had an opportunity to see all of the documents which have now been furnished to the Committee before his testimony during his confirmation hearing last September?

6. Mr. Hoover's office calendar shows that he and Mr. Mitchell had dinner with the President at Camp David on April 25, 1969. (a) Do the records indicate whether they left from the White House? (b) Is there any indication that there was a discussion at the White House before they left concerning news leaks and possible use of wiretaps?

7(a). How do you account for the fact that the wiretap on Halperin began on May 9 but the Attorney General did not sign the approval until 5:48 p.m. on May 12?

(b) The Committee staff was told by the telephone company that they do not have any records to show when the taps were put on or taken off. Is it possible that all four of the wiretaps were installed before the Attorney General approved them?

8. Mr. Sullivan's memo of May 11, concerning the first four wiretaps, stated that Colonel Haig did not want any "formal dissemination of the results of our coverage to his office. Instead, he will come to my office to review the information developed, which will enable us to maintain tight control of it." Yet on May 28 the first of a series of letter reports started flowing from Hoover to Kissinger reporting information from the taps.

Why was this change in handling made?

9. Does the FBI have in its files any documents setting forth the "investigative categories" which President Nixon, in his letter of July 12, said that he established?

10. The December 29, 1969, memo from Sullivan to DeLoach concerning conversations involving Clark Clifford contains a handwritten note "Suggest A.G. (Attorney General) be advised." Why would the Attorney General be advised when he did not normally get these reports?

~~TOP SECRET~~

~~TOP SECRET~~

11. There were many summary reports by letter to Dr. Kissinger which were hand delivered to the White House. Who were these reports given to in Dr. Kissinger's office?

~~TOP SECRET~~

Director
Federal Bureau of Investigation
Attention: Office of Legal Counsel

August 6, 1974

Henry E. Petersen
Assistant Attorney General
Criminal Division

Ospecov

Morton H. Halperin, et al. v. Henry A. Kissinger, et al.,
Civil Action No. 1187-73 (D.D.C.)

Reference is made to your memorandum of June 25, 1974,
subject as above.

In the above-captioned case, we have reviewed the documents which you provided in your memorandum of June 25, 1974, for production to the plaintiffs in accordance with the Court's Order of April 1, 1974, and are in agreement with your recommendations as to deletions from such documents prior to providing them to the plaintiffs. However, under the terms of the Court's Order of June 28, 1973, the originals of all documents relative to the present case must be provided to the Court for impoundment. Accordingly, we would appreciate your providing the Department with the originals of the documents attached to your June 25, 1974, memorandum in order that they may be submitted to the Court for impoundment.

63-16062-
ORIGINAL FILED IN

ENCLOSURE

65-75085-

NOT RECORDED
49 AUG 30 1974

2 - Mr. J. A. Mintz
1 - Mr. W. R. Wannall
(Attn: Mr. T. J. Smith)

Mr. Henry E. Petersen
Assistant Attorney General
Criminal Division

August 21, 1974

Director, FBI

1 - Mr. R. F. Peterson
1 - Mr. A. B. Fulton
1 - Mr. P. T. Blake

MORTON H. HALPERIN, et al., v.
HENRY A. KISSINGER, et al.
(U.S.D.C., D. C.)
CIVIL ACTION NO. 1187-73

Reference is made to your memorandum of August 6, 1974.

Pursuant to your request in the above-mentioned memorandum, I am furnishing the original documents, copies of which had been furnished to you with my memorandum of July 25, 1974, for production to the plaintiffs in accordance with the Court's Order of April 1, 1974.

I am pleased that you are in agreement with my recommendations as to deletions from these documents prior to their being provided to the plaintiffs.

Enclosures - 8

PTB: vb/rfk
(9)

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 5/7/82 BY 7858-SP/CLP/JS

CC- (Bufile: 65-75085)

NOTE:

MAILED 20

AUG 22 1974

This memorandum furnishes to the Department the originals of eight documents which the Department has decided fall under the Court's Impoundment Order of 6/28/73 in connection with the Halperin suit. Excised copies of these documents, which are also attached, were previously furnished to the Department for transmittal to the plaintiffs under the Court's Order of 4/1/74. These documents consist of:

1. Four Director Hoover memoranda to Messrs. Tolson, DeLoach, Sullivan, and Bishop, all dated 5/9/69;
2. Logs for the Henry Brandon wiretaps of 7/30/69 and 10/22/69;
3. Log for the William Beecher wiretap of 5/16/70;
4. C. D. DeLoach memorandum to W. C. Sullivan dated 5/13/70.

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SEP 5 1974

ORIGINAL FILED IN 63-16082-33

UNITED STATES GOVERNMENT

Memorandum

TO : J. H. Marshall - M.Mh

DATE: 8-27-74

FROM : Homer R. Hauer H.Mh

SUBJECT: Spec -

The attached _____ has been received in the Records Section, appropriately initialed, and indicated for file. By use of instant transmittal memorandum, all necessary recording and indexing will be accomplished. It is to be noted this form is for internal use only within the Records Section, principally by the Routing Unit where bulky material not accompanied by memorandum is usually received.

The enclosure, if bulky and not usually filed with other papers in file, may be detached but this action should be clearly noted under the word "Enclosure."

Enc.

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65-7585-419

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18 AUG 27 1974

AUG 28, 1974

93d Congress }
2d Session }

COMMITTEE PRINT

~~REPORT ON THE INQUIRY CONCERNING~~
~~DR. KISSINGER'S ROLE IN WIRETAPPING~~
1969-1971

REVIEW AND FINDINGS
BY THE
COMMITTEE ON FOREIGN RELATIONS
UNITED STATES SENATE



AUGUST 6, 1974

Printed for the use of the Committee on Foreign Relations.

U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1974

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(II)

REPORT ON THE INQUIRY CONCERNING DR. KISSINGER'S ROLE IN WIRETAPPING, 1969-1971

SUMMARY

At the request of Secretary of State Henry A. Kissinger, the Committee on Foreign Relations has re-examined his role in the wiretapping of certain newsmen and government officials in the period 1969-1971. After reviewing the additional documentation now available, hearing testimony from all appropriate and available witnesses, and interviewing other knowledgeable persons, the Committee has concluded that there are no significant discrepancies between the new information developed and Dr. Kissinger's testimony before the Committee during the confirmation hearings last year. The Committee reaffirms the conclusion stated in its report on his nomination (S. Ex. Rept. 93-15) that "... Mr. Kissinger's role in the wiretapping of 17 government officials and newsmen did not constitute grounds to bar his confirmation as Secretary of State."

CONSIDERATION OF THE WIRETAP ISSUE DURING THE CONFIRMATION PROCESS

The wiretap issue was considered by the Committee at length during the hearings on Dr. Kissinger's nomination. However, the Committee did not at that time have access to the basic FBI documents involved in the wiretaps, documents which were the basis for a number of recent news stories raising questions concerning Secretary Kissinger's previous testimony.

During the confirmation hearings the Committee heard Dr. Kissinger in public session on September 7, 10 and 11, 1973. On September 10 Members discussed the wiretap issue in executive session with Attorney General Richardson and Deputy Attorney General Ruckelshaus. Following that discussion the Committee appointed two members to meet with Mr. Richardson and Mr. Ruckelshaus to obtain additional information. On September 11, Senators Sparkman and Case, along with Dr. Carl Marcy of the Committee staff, examined, and discussed with Dr. Kissinger, Mr. Richardson, and Mr. Ruckelshaus, a 29-page FBI summary of the wiretap program dated June 25, 1973, which had been prepared for Mr. Ruckelshaus while he was acting director of the FBI. Two other documents were shown to Senators Sparkman and Case at that time, a letter from Mr. Hoover to Dr. Kissinger dated May 13, 1969, and a memorandum of talking points prepared for Dr. Kissinger by the then Colonel Haig for a June 4, 1969, meeting with Mr. Hoover.

The Subcommittee reported to the full Committee that it "... is of the opinion that Dr. Kissinger's role in the surveillance was not such as to bar him from confirmation by the Senate." After receiving the Subcommittee report the full Committee discussed the wiretap

issue at length with Dr. Kissinger in two executive sessions on September 17.

Those hearings and the transcript of the earlier executive session with Attorney General Richardson and Deputy Attorney General Ruckelshaus were sanitized and released to the public. The Committee is now releasing additional portions of those transcripts in order to expand to the maximum extent possible the public record of what was told to the Committee last year.

The full Committee agreed with the Subcommittee's findings and concluded that "Mr. Kissinger's role in the wiretapping of 17 government officials and newsmen did not constitute grounds to bar his confirmation as Secretary of State." His nomination was approved by the Committee by a vote of 16 to 1 on September 18 and was confirmed by the Senate on September 21 by a vote of 78 to 7.

The Committee was concerned over the use of "national security" or foreign policy as a justification for wiretapping and stated that it intended to keep the wiretapping policy under review to insure that neither officers nor employees of the Department of State, the National Security Council, or any other agency, nor private citizens, would be subjected to the treatment to which officers of the Department of State and the NSC and members of the press were exposed during the wiretap operation and to see what could be done to prevent abuses under the guise of a "national security" label.

At the meeting when Dr. Kissinger's nomination was approved, the Committee unanimously adopted a resolution to "undertake a full examination of the use of electronic and other means of surveillance of American citizens in connection with alleged intelligence gathering or other activities related to . . . foreign policy. . . ."

Subsequently, a Subcommittee on Surveillance was appointed to carry out the Committee's mandate for a study of the general issues involved in warrantless wiretapping, with Senator Muskie as Chairman. This Subcommittee has held a number of hearings on wiretapping jointly with two subcommittees of the Committee on the Judiciary. The Committee on Foreign Relations is still very much concerned about the broader issues posed by the 17 wiretaps and hopes that the efforts of these three subcommittees will ultimately result in the enactment of effective statutory safeguards to govern the use of wiretaps for foreign policy or related purposes.

THE CURRENT INQUIRY

The current controversy arose from the publication of a number of news reports and editorials which questioned portions of Dr. Kissinger's testimony before the Committee last year relative to his role in the wiretapping program. The news reports and comments, based largely on FBI documents not then released to the public and a garbled excerpt from a tape of a Presidential conversation on February 28, 1973, created some public concern that the Secretary had not been truthful with the Committee in describing his role in the initiation and conduct of the wiretap program.

On June 10, 1974, Secretary Kissinger sent a letter to the Chairman of the Committee stating that the news reports and editorial comment ". . . involve fundamental issues concerning the truthfulness and completeness of my testimony; hence they raise issues of public

confidence and directly affect the conduct of our foreign policy." He asked that the Committee review the matter, stating "... at this sensitive period I feel it important that the Committee which first examined the evidence, and which has a special concern with the conduct of foreign affairs, should have an opportunity to review it (i.e., his testimony) once again." The Committee agreed unanimously to the Secretary's request for a review.

During the current inquiry the Committee received excellent cooperation from the Department of Justice, which furnished the Committee with all of the documents in its files bearing on Dr. Kissinger's role in the wiretapping, a vast amount of materials which were not available during the confirmation hearings. However, no documents were received from the White House and the Committee was told that none had been found relative to the wiretapping program. Executive Branch officials have said that the FBI documents are the only official records that exist concerning the wiretap program. a cc
DC

However, answers to written inquiries were obtained from former Attorney General Mitchell, who, through his attorney, declined an invitation to testify. In addition, Mr. William C. Sullivan, a former FBI official who was a key participant in the program, provided extensive written answers to Committee inquiries. Mr. Sullivan, who suffered a heart attack recently, was anxious to testify personally but was prohibited by his doctor from doing so.

The Committee held six hearings during the inquiry, receiving testimony from Attorney General William French Smith; FBI Director Clarence Kelley and his associates; Mr. Bernard Wells, a retired FBI agent who handled much of the paperwork on the wiretaps; Secretary Kissinger; former Secretary of State Dean Rusk; and General Alexander M. Haig, Jr., Assistant to the President. In addition, numerous informal interviews were conducted. All of the hearings were in executive session since discussion of individual wiretap cases was necessary to bring out essential facts from each of the witnesses except that in the case of former Secretary Rusk other considerations were involved. The hearing transcripts have been sanitized, leaving in as much as possible, so that the record will speak for itself.

COMMITTEE OBSERVATIONS AND CONCLUSIONS

The purpose of the Committee's inquiry was not to investigate the wiretap operation per se. Nor does the Committee consider it necessary to make definitive findings of fact on each of the allegations that have been made concerning Dr. Kissinger's role in the wiretapping. In fact, this new record may raise additional questions about certain aspects of the wiretap program. But, we believe it should lay to rest the major questions raised about Secretary Kissinger's role.

The Committee had no illusions about the difficulty of establishing precisely what took place in the wiretap program. There are some discrepancies between the FBI documents and the testimony of participants in the program. Probably it will never be possible to determine exactly what took place. More than five years have passed since the wiretaps were initiated and time has taken its toll in life, memory, health, and records.

Some questions can be answered only by President Nixon.

Others could be answered only by the late J. Edgar Hoover.

Some inconsistencies between the testimony and the FBI documents can be resolved only by Mr. William C. Sullivan, who is physically unable to testify.

Other aspects will remain a mystery due to apparent gaps in the FBI documents.

Recollections of participants have become hazy and uncertain with the lapse of time.

Realizing the impossibility of laying to rest every question about the wiretap program and Secretary Kissinger's role in it, the Committee set a more modest and realistic objective. The Committee approached this inquiry with two questions in mind:

1. Is there a basis in ascertainable fact to conclude that Dr. Kissinger misrepresented his role in the wiretapping during his testimony last year?

2. Would the Committee, with all of the information it now has concerning the wiretapping program, reach the same conclusion it did last September that "... Dr. Kissinger's role in the wiretapping of 17 government officials and newsmen did not constitute grounds to bar his confirmation as Secretary of State?"

After considering all of the testimony and relevant materials, the Committee has concluded that the answer to the first is "No", and the answer to the second is "Yes".

In making this inquiry the Committee has not addressed itself to the legality of the wiretaps involved. It is neither passing judgment on the constitutionality of warrantless wiretaps for foreign policy/national security purposes nor on whether these individual wiretaps were properly justified if, in fact, warrantless wiretaps for such purposes were legal at the time. These are matters for the courts to decide. But it should be noted that Dr. Kissinger's participation in the wiretapping came after assurances by the Attorney General that such wiretaps were lawful and by Mr. Hoover that similar wiretaps were carried out under previous Administrations. It is highly unlikely that anyone with Dr. Kissinger's background, largely within the academic world, would question assurances of legality and precedents from the nation's chief law enforcement officers. In carrying out his orders from the President, Dr. Kissinger was acting on the assumption, backed by Attorney General Mitchell and FBI Director Hoover, that the wiretaps were perfectly legal.

The Committee has not found any significant inconsistencies between Dr. Kissinger's testimony of last year as to his role in wiretapping and the new evidence now available. It matters little whether the President's decision to use wiretaps in an effort to trace the source of leaks was made on April 25, 1969, as now appears to be the case, or May 9, 1969, as Dr. Kissinger had thought when he testified last year. None of the discrepancies that has emerged pierce the heart of the issue here: Is there solid reason to doubt that Dr. Kissinger was truthful last year in describing his role?

To be sure, there are inconsistencies between the FBI documents and the testimony. For example, in the documents, there is a letter from Mr. Sullivan to Mr. Hoover dated May 20, 1969, which states that Dr. Kissinger came to Mr. Sullivan's office that morning and "... read all the logs." Dr. Kissinger cannot recall such a visit, and Mr. Sullivan assured the Committee that he neither saw nor talked to

Dr. Kissinger during the entire time the wiretap program was in operation.

Much of the recent controversy over Dr. Kissinger's role seems to be a question of semantics, particularly over the meaning of the words "initiate" and "request" in relation to his participation in the wiretapping. Words in FBI documents or on Presidential taps cannot be considered as definitive statements either of what transpired or of Dr. Kissinger's part in the overall program. They should be considered only in relation to the framework of the overall policy ordered by the President and the total evidence now available.

Did Dr. Kissinger *initiate* the wiretap program by urging it on the President? Or, did he merely *participate* in the wiretapping, carrying out a program ordered by the President, as he testified last year?

In a letter to the Committee dated July 12, 1974 in response to a Committee request for additional information, the President wrote:

"I ordered the use of the most effective investigative procedures possible, including wiretaps, to deal with certain critically important national security problems. Where supporting evidence was available, I personally directed the surveillance, including wiretapping, of certain specific individuals.

I am familiar with the testimony given by Secretary Kissinger before your Committee to the effect that he performed the function, at my request, of furnishing information about individuals within investigative categories that I established so that an appropriate and effective investigation could be conducted in each case. This testimony is entirely correct; and I wish to affirm categorically that Secretary Kissinger and others involved in various aspects of this investigation were operating under my specific authority and were carrying out my express orders."

None of the FBI documents relates to the meeting at which the decision was made to use wiretaps to check for leaks. Representatives of the White House advised the Committee that there are no records of what occurred at the decision-making meeting, which apparently took place on April 25, 1969. Secretary Kissinger told the Committee "... I did not initiate the program, I did not recommend the program, and I had nothing to do with its establishment. I then participated in the program, once it was established, according to criteria that had been laid down in the President's office." The President stated that he initiated the program. Dr. Kissinger's role, as he described it last year and again this year, was that of assisting in implementing a program ordered and directed by the President. The Committee has received no new information which contradicts that description of his role.

Semantic problems arise again in the question of whether or not Dr. Kissinger "initiated" individual wiretaps. Secretary Kissinger testified last year that he supplied names to the FBI of those fitting the criteria agreed upon in the meeting with the President but that "... in supplying the names we did not specifically request a tap, although we knew, of course, that this could be, was a probable outcome." In testimony this year he explained that: "Insofar as the

submission of a name triggered a series of events which resulted in a wiretap, it could be said that the submission 'initiated' the tap."

There are unexplained contradictions between the testimony and the documents relative to the wording of individual wiretap requests. Documents concerning "requests" for wiretaps were generally prepared without the benefit of personal contact between the drafter and the "requester," whose real identity is sometimes doubtful. Upon questioning, Mr. Bernard Wells, the FBI agent who handled the preparation of most of the papers relative to the program stated that the wording on the individual request forms could not be taken literally.

The Committee was unable to settle to its satisfaction some questions about the initiation and termination of certain wiretaps. But it did establish to its satisfaction that Secretary Kissinger's role in the program was essentially as he described it in testimony last year.

In summary, the Committee is of the opinion that it has appropriately inquired into Dr. Kissinger's role in the wiretapping, pursuant to his request following the recent controversy, and the Committee now concludes that there are no contradictions between what Dr. Kissinger told the Committee last year and the totality of the new information available. The Committee reaffirms its position of last year that his role in the wiretapping "... did not constitute grounds to bar his confirmation as Secretary of State." If the Committee knew then what it knows now it would have nonetheless reported the nomination favorably to the Senate.

UNITED STATES GOVERNMENT

Memorandum

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Director Sec'y _____

TO : Mr. W. R. Wannall *WRW/TJS*

DATE: 9/19/74

FROM : A. B. Fulton *ABF*

SUBJECT: REMOVAL OF NATIONAL SECURITY
WIRETAP RECORDS
OBSTRUCTION OF JUSTICE

Reference is made to memorandum R. E. Long to Mr. Gebhardt, captioned as above and dated 9/11/74.

72-2190-25

Referenced memorandum pointed out the Special Prosecution Force had requested investigation relative to a physical surveillance in August, 1969, of Morton Halperin and Henry Brandon at which time photographs were taken by WFO of these individuals. Memorandum recommended copies of these photographs maintained in the Intelligence Division be obtained and that polaroid copies be made and furnished to Watergate Unit Accounting and Fraud Section, Investigative Division, which was done.

Due to the poor quality of polaroid copies, the Laboratory Division also made negatives of these photographs. These negatives are attached.

RECOMMENDATION:

That this memorandum with the enclosed negatives be filed in the (SPECOV) file, Bureau file 65-75085. 3 SEP 23 1974

Enclosure

6-ENCLOSURE

JWD:rfk
(7)

- 1 - Mr. Gebhardt
- 1 - Mr. Long
- 1 - Mr. Nuzum
- 1 - Mr. Wannall
- 1 - Mr. White
- (Attn: Mr. Avignone Room 7336)
- 1 - Mr.

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SEP 23 1974 *ABF*

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ENCLOSURE
65-7508-420

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DOC LAB NOTE

ITEM (S)
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DESCRIPTION

Negatives

UNITED STATES GOVERNMENT

Memorandum

1 - Mr. J. J. McDermott
1 - Mr. W. R. Wannall

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Director Sec'y _____

TO : Mr. W. R. Wannall *W. R. Wannall* JUNE

DATE: 9/30/74

FROM : A. B. Fulton *A. B. Fulton*

SUBJECT: SPECOV

SPECOV is the code word for special electronic coverage placed at the request of the White House.

The 9/29/74 edition of "The Washington Post," A-11, contained an article captioned "Kissinger Suggests Awe of Hoover Fostered Role in Wiretaps." The article, which is attached, states that, in his testimony before the Senate Foreign Relations Committee regarding his role in the electronic surveillance of the 17, the Secretary of State said that the first four wiretap targets, three of them National Security Council subordinates, and the fourth, a former senior Pentagon Military Advisor, were designated by Director Hoover.

A review of the file in this matter does not substantiate Dr. Kissinger's statement. The first four on whom surveillances were requested were Morton H. Halperin, Daniel Ira Davidson and Helmut Sonnenfeldt of the National Security Council Staff and then Colonel Robert Pursley, a Military Assistant to the Secretary of Defense.

The choice of these subjects is not clear from a review of the file. However, a memorandum dated 5/11/69 states that Colonel Haig, who was then an Assistant to Dr. Kissinger, contacted former Assistant to the Director W. C. Sullivan requesting the wiretaps on these four individuals.

DC
Henry As a prelude to this request, memoranda in file dated 5/9/69 dictated by Director Hoover indicate that Dr. Kissinger telephoned the Director on two occasions on that date stating concern over three articles written by William Beecher, a newsman, concerning the Vietnam War. The last of the memoranda dictated by Director Hoover on 5/9/69 which was followed up by a letter to Dr. Kissinger on 5/13/69 and which contained substantially the same information, indicated that the Director told Dr. Kissinger

Enclosure

65-75085

RHH:rfr

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ROUTE IN ENVELOPE

CONTINUED - OVER

OCT 4 1974

OCT 3 1974

G. N. P.

Memorandum to Mr. W. R. Wannall
Re: SPECOV

of his suspicions regarding the sources of Beecher's information. In the memorandum recording Mr. Hoover's last discussion with Dr. Kissinger, three names are listed as possible sources of the leaks to William Beecher; (Morton) Halperin, (Lawrence) Eagleburger and [redacted] Dr. Kissinger was told that from information furnished by sources contacted it could be speculated that one or more of these men, who were all believed to be personally acquainted with Beecher, were furnishing Beecher information. Halperin was with the National Security Council. Eagleburger was a State Department employee on loan to the National Security Council. [redacted] was with the Defense Department.

Although all three men appeared to be logical suspects; only one, Halperin, was wiretapped. In this sense, it could be now speculated that Mr. Hoover may have suggested that one name as a suspect. However, the records do not in any way indicate that the FBI furnished names of persons who might be logical targets for wiretapping.

In the latter connection, it is to be noted that during testimony of Messrs. Kelley, Adams and Smith before the Senate Foreign Relations Committee on 7/15/74 this matter was explored. On Page 83 of the testimony of the hearings, Mr. Adams stated "... That in furnishing the names I do not think that we suggested any of the wiretaps because Mr. Hoover, in one of his memorandums of his conversations of May 9, mentioned three individuals who could possibly be involved and only one of them did come back with an actual request, the other two were never tapped."

It can be seen from the above that the author of the "Post" article either overlooked or ignored that part of the testimony which answered the question raised by Dr. Kissinger as to Mr. Hoover designating the first four wiretaps.

RECOMMENDATION:

None. For information.

mrc
SH
Jma
WHL
R. H. H.
TJS

Kissinger Suggests Awe of Hoover Fostered Role in Wiretaps

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By Laurence Stern
 Washington Post Staff Writer

Secretary of State Henry A. Kissinger suggested to Senate investigators that his acquiescence in the 1969-to-1971 national security wiretaps was prompted, in part, by his fear of the late J. Edgar Hoover's political power in Washington.

Kissinger's admission was contained in closed-door testimony given last July and made public in heavily sanitized form yesterday by the Senate Foreign Relations Committee.

The testimony did not resolve any of the major contradictions between the secretary's own version of the wiretapping episode and that of the FBI as contained in memoranda left by Hoover and the

testimony of other bureau witnesses.

My impression was that Hoover was rather suspicious of me, and therefore in my conversations with Hoover I might have had a tendency to show him that I was alert to the danger of security, particularly considering his political power in Washington. Kissinger told the largely friendly Senate committee.

He made the observation when questioned about a May 9, 1969, Hoover memorandum reporting a Kissinger demand that the FBI uncover the source of news leaks and that he would "destroy whoever did this if we can find him, no matter who it is."

Kissinger amplified before the committee.

The idea that Director Ho-

over would take orders from a presidential assistant who had just come to Washington, I think, would be contradicted by anybody who had ever dealt with Director Hoover.

In their testimony both Kissinger and his former deputy, Alexander M. Haig Jr., minimized their role as initiators of wiretap requests and placed the responsibility on Hoover and former President Nixon, who has publicly acknowledged he was responsible for the surveillance program.

Kissinger said that the first four wiretap targets, three of them National Security Council subordinates and a former senior Pentagon military adviser, were designated by Hoover.

Haig, who was identified in

The Washington Post A11
 Washington Star-News _____
 Daily News (New York) _____
 The New York Times _____
 The Wall Street Journal _____
 The National Observer _____
 The Los Angeles Times _____

Date 9-29-74

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FBI records as having initiated requests for 12 of the 17 wiretaps, testified that "I never would have submitted a name that I did not get from Dr. Kissinger" or from the President with Dr. Kissinger's knowledge.

At one point in the hearing Sen. Edmund S. Muskie (D-Maine) exclaimed to Haig: "I am puzzled as is the chairman. The FBI documentation which has created most of the recent resurgence of interest in the whole matter tells a different story than we have heard from the Secretary of State and from you as to your respective roles, the originating authority and how the program was implemented."

Asked by Muskie if the FBI could be wrong, Haig responded that "I think their

bookkeeping can be inaccurate, yes."

The final round of hearings last July on the wiretapping program was held at Kissinger's request after he warned in an impassioned press conference at Salzburg last June 11 that he would resign unless he were cleared of publicly voiced suggestions that he misrepresented his role in the 17 taps.

The committee gave him that verdict by reaffirming its approval of his nomination as Secretary of State.

This new record may raise additional questions about certain aspects of the wiretap program, a committee summary of the new inquiry concluded. "But, we believe it should lay to rest the major

questions raised about Secretary Kissinger's role."

One aspect of the case the committee was unable to resolve was the disclosure that the wiretap on former National Security Council staffer Morton Halperin was placed in operation three days before an authorization was signed by former Attorney General John N. Mitchell.

Halperin has incorporated this fact in his civil damage suit against Kissinger and other former administration officials.

The new testimony included a repudiation by former Assistant FBI Director William C. Sullivan of an earlier claim he made in a letter to Hoover that Kissinger had visited his office with Haig on May 20, 1969, to read wiretap logs. Sullivan had, in his precious

account, quoted Kissinger as saying: "It is clear that I do not have anybody in my office that I can trust except Col. Haig here."

In written testimony to the committee Sullivan, who was at the time the FBI liaison with the White House on the wiretaps, said he could not recall the incident.

Kissinger, when asked about the alleged comment, testified that it could have been made as a semi-sarcastic statement in response to some description of people around me.

Both Kissinger and Haig indicated to investigating senators some suspicion that they, too, were under surveillance during the program.

Speaking of the surveillance of an acquaintance of his, Haig said: "I did not like it be-

cause he was a personal friend of mine, but I quite frankly assumed I was being surveilled at that time."

Kissinger, at one point, acknowledged that he may have inquired half facetiously of former Assistant Attorney General Robert Mardian: "Do you have what I said on the phone?"

Former FBI supervisor Bernard Wells, who assisted Sullivan with the paperwork on the wiretap program, testified that the taps were ended because they "outlived their usefulness. They were not very productive."

"Sort of a bore?" inquired Foreign Relations Committee Chairman J. W. Fulbright (D-Ark.)

"It sure was," answered Wells.

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Henry & Al & J. Edgar

ESSAY

By William Safire

WASHINGTON, Sept. 29—Last year, after learning that I was among 17 Government officials and newsmen who had been illegally wiretapped, I called Al Haig to find out if President Nixon had known about the tap on my line.

"Absolutely not," said General Haig. "The President was shocked to learn about it just now."

That was not true. In testimony released yesterday as part of the Senate Foreign Relations Committee's whitewash of the Kissinger-Haig role in wiretapping, Senator Fulbright asked: "So is it correct to conclude that the President personally requested that each of these individuals be tapped?"

Our next NATO commander replied artfully: "... three or four weeks ago the President signed a letter suggesting that he approved them, and, therefore, I believe that he did."

Then General Haig added a curious thought about Mr. Nixon's approval of each of these invasions of privacy: "Now, how formally that was done, whether it was done by Mr. Ehrlichman or Mr. Haldeman in his behalf, or Dr. Kissinger running it by him, I can't say."

Consider those words, because they reveal a conception of a plural President that is at the root of so much of the Watergate agony. When I recently remonstrated with General Haig for misleading me last year, he replied in the same vein: "You know, Bill, 'the President' is more than one man."

The idea of a hydra-headed President, with accountability diffused and blame unfixable, is the Kissinger-Haig defense against bearing responsibility for fervent sponsorship of an illegal White House spying operation. They were just "following orders" from a President who—in their eyes—was sometimes J. Edgar Hoover, sometimes John Mitchell, and once in a while the individual who had been elected to the job.

Spying on his colleagues was necessary, Dr. Kissinger explained over the sound of the sympathetic clucking of Senators Scott and Case, to show the fierceness of his own loyalty—after all, Henry had long experience in Washington, under Democrats: "I was a friend of both Jack and Robert Kennedy. . . . In 1967 I conducted negotiations with the North Vietnamese for Harriman and Katzenbach. I saw a great deal of Robert Kennedy before his assassination and, of course, I was a consultant to the President then."

This decade-long record of top level Washington experience was suddenly forgotten by Dr. Kissinger when asked to explain his remark to Director Hoover that Henry and his friends "would destroy whoever did this leaking."

"I was new in Washington," he explained. "I might have had a tendency to show him that I was alert to the danger of security."

Dead men tell no tales, Dr. Kissinger and General Haig have decided, and as expected they have tried to place the largest portion of guilt about the wiretaps at the doorstep of the F.B.I.

In most of the cases, the orders to wiretap had been requested by deputy F.B.I. Director William Sullivan, who said he received surveillance requests from Al Haig. Mr. Hoover would then get written authorization from the Attorney General and the taps went on. But Messrs. Kissinger and Haig now claim that the F.B.I. documents lie, swearing they knew nothing about certain of the taps that were attributed to them.

Whom does that leave holding the bag? J. Edgar Hoover, who was deep-sixed by the grim reaper a while back, and William Sullivan, who insists that General Haig did indeed make the wiretap requests he now denies.

If we are to believe the accounts of the Kissinger-Haig who-me? defense, we must believe that the Federal Bureau of Investigation was run with no concern for professionalism, with embarrassing activities lightly covered by stories that could readily be disavowed, which was not the way J. Edgar Hoover was known to operate.

The conflict in testimony between the Kissinger-Haig defense and the testimony of the living F.B.I. men is absolute: Somebody is committing consistent perjury, and nobody in Government is interested in finding out who's lying.

The Senate Foreign Relations Committee investigation was a joke, the committee recoiled from the clue that Dr. Kissinger dropped about yet another F.B.I. program of wiretapping, not yet revealed.

The special prosecution force does not find illegal wiretapping ideologically satisfying and has dropped it. The last I heard from Leon Jaworski was a message relayed to me by Al Haig a few months ago to "tell your man Safire to lay off." General Haig said he had told the special prosecutor I was not his man.

65-7302-421

OCT 3 1974

The Washington Post _____
Washington Star-News _____
Daily News (New York) _____
The New York Times 35 _____
The Wall Street Journal _____
The National Observer _____
The Los Angeles Times _____

Date SEP 30 1974

Which is true enough, Al Haig has boasted to colleagues in San Clemente of a \$200,000-a-year offer in the private sector from the Rockefellers. Let him take it.

The post held with honor by Generals Eisenhower, Gruenther, Ridgeway and Norstad should not go to the overly-good soldier who, to this day, thinks that "the President is more than one man."

Del.
by
10-21-74

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Haig Testimony: He Acted For Kissinger on Wiretaps

By JOHN M. CREWDSON

Special to The New York Times

WASHINGTON, Sept. 28—Alexander M. Haig Jr., while an assistant to Henry A. Kissinger, asked the Federal Bureau of Investigation to place under surveillance some of the Government officials who became targets of a controversial wiretap program, according to Senate testimony made public today.

General Haig, who told the Senate Foreign Relations Committee in July that he "never viewed myself as anything but an extension of Dr. Kissinger," testified that in passing the names of officials to the F.B.I. he had been told to ask "generally that they be surveilled."

Mr. Kissinger, who was President Nixon's national security adviser when the wiretaps were begun in May of 1969, has main-

tained publicly and under oath that he never initiated or recommended the use of electronic surveillance as a means of finding and stopping leaks of sensitive foreign policy information to the news media.

Mr. Kissinger, who has since become Secretary of State, has repeatedly described his role as one of submitting to the F.B.I. the names of subordinates on the National Security Council staff who fitted three pre-arranged criteria for possible sources of "leaks."

During an emotional session with reporters in Salzburg, Austria, in June, Mr. Kissinger conceded that "in submitting these names, we knew that an investigation was certain and that a

wiretap was probable."

But he attacked the "impression," he said, had been created by news accounts that the wiretap program was "a shady affair" and that he had requested wiretaps on specific individuals. And he threatened to resign from the State Department if the matter were not resolved.

The Foreign Relations Committee, which confirmed Mr. Kissinger's nomination as Secretary of State in September, 1973, held special hearings last summer after Mr. Kissinger requested them as a means of clearing up his role in the wiretap affair.

The committee agreed unanimously in August that Mr. Kissinger had not misled it during about his participation in the 21-month-long search for leaks, an investigation for which former President Nixon has said he gave full authorization.

The transcript of the closed hearings, made public today, contains a number of deletions that committee aides said had been requested by the Department of State and the F.B.I. on national security grounds. But it nevertheless provides the most complete picture thus far of the genesis and scope of the wiretap program and of the part in it played by Mr. Kissinger's office.

Haig Questioned

At one point, Senator J. William Fulbright, Democrat of Arkansas, the committee chairman, asked General Haig, "What were you told to ask the F.B.I. to do when you submitted names to them — ask that a general investigation be made of the individuals that they be interviewed or only that wiretaps be installed on their homes?"



Alexander M. Haig Jr.

The Washington Post _____
 Washington Star-News _____
 Daily News (New York) _____
 The New York Times 1 _____
 The Wall Street Journal _____
 The National Observer _____
 The Los Angeles Times _____

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"Generally, that they be surveilled," General Haig replied. "It was very clear to me that wiretapping. I wasn't the least bit naive about it, Senator."

General Haig, who was named by President Ford last week as supreme commander of allied forces in Europe, portrayed himself in his testimony of allied forces in Europe, portrayed Mr. Kissinger's liaison with the F.B.I. during the wiretap effort.

He was asked whether he could assure the committee that Dr. Kissinger at no time was responsible for the initiating of these requests on these people, a reference to the 13 Government officials and four newsmen who were tapped for varying lengths of time between May, 1969, and February, 1971.

'My Distinct Impression'

"I do not know that I can say that categorically," General Haig replied. "What I can say is this: It was my distinct impression that in no instance did I receive instructions from Dr. Kissinger where he had not either received or participated in the decision that brought those instructions to me."

During his own testimony before the committee, Mr. Kissinger agreed that the dispute over his role in the matter was a "semantic" one that revolved around the question of whether he initiated the wiretap program or merely participated in it.

"I certainly did not initiate the program," he replied. "I did not recommend the program, and I had nothing to do with its establishment."

"I then participated in the program once it was established, according to the criteria that had been laid down in the President's office."

These, he said, involved the submission by him to the F.B.I. of the names of National Security Council staff members with access to the classified information that was being leaked to the press, such as that concerning the May, 1969, secret bombing of Cambodia, or of

individuals with adverse information in their security files.

In response to a written question from the committee's staff, Mr. Kissinger said that "when my office submitted a name, I assumed that the F.B.I. would conduct an investigation using whatever techniques they deemed appropriate."

"I do not know what specific investigation techniques were employed by the F.B.I.," he continued, "but I assumed that wiretaps would follow the submission of a name by my office."

Senator Jacob K. Javits, Republican of New York, recalled for Mr. Kissinger a White House tape recording in which President Nixon cited Mr. Kissinger as having "asked" that wiretaps be installed on some of his associates.

"Having heard that Presidential statement, do you still stand by your statement as the truth?" Senator Javits asked.

"Of course," the Secretary replied.

In its report, the Foreign Relations Committee conceded that, "to be sure, there are inconsistencies between the F.B.I. documents relating to the wiretap operation and the testimony of General Haig, Mr. Kissinger and others."

Because of these, the report noted, "the committee was unable to settle to its satisfaction some questions about the initiation and termination of certain wiretaps."

"But it did establish to its satisfaction that Secretary Kissinger's role in the program was essentially as he described it in testimony last year."

'Discrepancy About Hoover'

Some inconsistencies involve F.B.I. documents prepared by J. Edgar Hoover, the late F.B.I. director, and William C. Sullivan, a retired bureau official whom the report described as having been "physically unable to testify" before the Foreign Relations Committee last summer.

One major inconsistency is contained in a Hoover memorandum, written on May 12, 1969, which maintains that it was General Haig, then a colonel attached to Mr. Kissinger's White House office, who

had brought the F.B.I. the first "request" for wiretaps on four National Security Council and Pentagon officials.

Mr. Kissinger testified, however, that the first four targets of the wiretap program were suggested not by him but by Mr. Hoover, three of whom, he said, the F.B.I. chief had recommended that Mr. Kissinger not hire for his staff.

Other inconsistencies stem from a series of F.B.I. memos citing either Mr. Kissinger or General Haig on his behalf, as having requested the initiation of some of the taps or the termination of others.

'Describes His Role'

Mr. Kissinger testified, however, that his sole function in the surveillance effort beyond the selection of some of the 17 names passed on to the F.B.I. was to read occasional reports of overhead conversations forwarded by the F.B.I. to the White House.

"I had no knowledge of when an individual tap was terminated," Mr. Kissinger said, "and I was not involved in termination decisions."

"I appreciate," Mr. Kissinger told the committee, "that in scrutinizing the transcript of these discussions, there will always be nuances, or sentences, which, taken out of context, can give rise to interminable new inquiries."

"I do not suggest that the press should not probe. And I do not ask that Secretaries of State not be criticized. But I do ask that the questions as to my role and the truthfulness and completeness of my testimony be finally resolved."

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FBI's Chief Scorned Him, Kissinger Says

Washington, Sept. 28 (UPI) — In secret testimony revealed today, Henry Kissinger told a Senate panel that J. Edgar Hoover scorned him as "a Kennedy-type Harvard professor" and tapped the phones of three aides Kissinger had hired over the late FBI chief's objections.

The Senate Foreign Relations Committee released transcripts of hearings last July into allegations that Kissinger had lied about his role in Nixon administration wiretapping when he testified at his confirmation hearings as secretary of state.

Kissinger had threatened to resign unless the Senate panel cleared his name. It did so, and the transcripts disclosed for the first time Kissinger's line of defense, his views of the late FBI director and the apologetic reactions of the senators at the hearing.

In essence, Kissinger said Hoover alone had singled out three Kissinger aides as "security risks" and ordered their phones tapped as part of a 1969 drive by the White House "plumbers" to plug leaks of national security information.

On July 23, Kissinger testified that he had, in fact, ignored Hoover's advice not to hire the three men whose names were deleted from the transcripts for the staff he then had as a presidential adviser on national security affairs.

The three were later among the 17 officials and reporters wiretapped by the FBI. Kissinger testified, as he had previously, that he had not requested any of the taps and had only joined the April 25, 1969, White House meeting that decided the issue after it was in progress.

When the decision was made, the director of the FBI identified as potential leakers the three people he had already previously identified as security risks when he wanted to hire them. I had overruled the objections. It was not necessarily the most flattering thing to me to have those three picked out, Kissinger said.

Link to JFKers

Kissinger acknowledged that these aides had been closely linked to the John F. Kennedy administration. Kissinger said:

"There is no doubt that some of my colleagues in the White House were very upset about the fact that I alone, of the senior officials in the White House, brought on my staff individuals who had been identified with the previous administration, with two of the previous administrations."

"There is also no doubt that the admiration of Mr. Hoover for the Kennedy family was very limited."

Kissinger said Hoover would never have taken orders from him on who to wiretap, "especially as I believe I also fitted some of the categories he considered invidious, in one of the letters he wrote, as a Kennedy-type Harvard professor."

The testimony suggested the Senate panel members sympathized with Kissinger and regretted the need to investigate the allegations against him.

This whole performance belongs in Doonesbury cartoons rather than in the Senate Foreign Relations committee, said Sen. Hugh Scott (R-Pa.).

Sen. Hubert H. Humphrey (D-Minn.) compared documents gathered by Kissinger's accusers to a new script for a Peanuts cartoon.

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The Washington Post _____
 Washington Star-News _____
 Daily News (New York) 18
 The New York Times _____
 The Wall Street Journal _____
 The National Observer _____
 The Los Angeles Times _____

SEP 29 1974

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OCT 4 1974

UNITED STATES GOVERNMENT

Memorandum

1 - Mr. J. J. McDermott
1 - Mr. W. R. Wannall

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Telephone Rm. _____
Director Sec'y _____

TO : Mr. W. R. Wannall *Wannall*

JUNE

DATE: 9/30/74

FROM : A. B. Fulton *Fulton*

Sealed pursuant to U.S. Court
Order

SUBJECT: SPECOV

SPECOV is the code word for special electronic coverage placed at the request of the White House.

akoy Averell Harriman An article in the 9/30/74 edition of "The Washington Post," A8, captioned "FBI Spied on Harriman House in 1970," (copy attached) stated that the home of former Ambassador W. Averell Harriman was placed under physical surveillance in the Spring of 1970 so that the Government could find out who was attending what was described as a meeting of persons opposed to the Cambodia invasion. The article stated retired Bureau Supervisor Bernard A. Wells had testified, at a closed hearing of the Senate Foreign Relations Committee in the Summer of 1974 on the Secretary of State's role in the electronic surveillance of the 17 individuals, that he had written a memorandum dated 5/18/70 reporting the results of the physical surveillance. *Fulton* *NY* *b6* *b7C*

The article and former Special Agent Wells' testimony are factual. *OTHER*

The surveillance log on Ambassador William H. Sullivan, one of the subjects of the 17 surveillances, under date 5/10/70, contains a [redacted] telephone conversation [redacted]

This information was reported to the President by letter dated 5/11/70.

By letter dated 5/18/70 to H. R. Haldeman, with cover memorandum W. C. Sullivan to DeLoach of the same date, it was reported that on 5/17/70 fourteen individuals gathered at Harriman's home, [redacted], Washington, D. C. This letter contains no information concerning what transpired at [redacted] *REC* *65-75085-423* *b6* *b7C*

Enclosure

65-75085

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DATE 5/7/82 BY 7858 SP/16/16

CONTINUED - OVER OCT 3 1974

ROUTE IN ENVELOPE

OCT 4 1974

Memorandum to Mr. W. R. Wannall
Re: SPECOV

the meeting and only reports the identity of those in attendance. The cover memorandum reports essentially the same information as the letter. No reference is made in the memorandum to a physical surveillance. However, it is apparent from the contents of the letter and memorandum that the information was obtained from a physical surveillance and not from a technical surveillance.

It is to be noted that the Director noted on the memorandum "An excellent job. H. I talked to Haldeman at Key Biscayne. H." This notation by Director Hoover is quoted in the "Post" article.

The above article also notes that Senate Foreign Relations Committee Staff Aide Norvill Jones alluded to the possibility of another physical surveillance being conducted during the time the 17 surveillances were in operation.

This is also true and is apparently in reference to a physical surveillance placed on John Patrick Sears. This surveillance was operated during a short period of time in July, 1969.

RECOMMENDATION:

None. For information.

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Dep. AD Adm. _____

Dep. AD Inv. _____

FBI Spied on Harriman House in 1970

By Peter Masley

Washington Post Staff Writer

The Georgetown home of former Ambassador W. Averell Harriman was placed under FBI surveillance in the spring of 1970 so the government could find out who was attending what was described as a meeting of persons opposed to the Cambodia invasion, according to newly released congressional testimony.

The Senate Foreign Relations Committee, in publishing edited testimony from last summer's closed hearings on the role of Secretary of State Henry A. Kissinger in government wiretaps on the phones of four reporters and 13 federal officials, lists in its chronology:

"May 12, 1970—Sullivan sends DeLoach a memo reporting on what appears to be physical surveillance of a meeting at Averell Harriman's residence of State Department personnel who opposed the Cambodian operation. A handwritten note by Hoover says:

"An excellent job. I talked to Haldeman at Key Biscayne."

William C. Sullivan then was assistant director of the FBI for domestic intelligence. Cartha DeLoach was deputy to FBI Director J. Edgar Hoover, and H. R. (Bob) Haldeman was President Nixon's chief of staff. The wiretaps started May 12, 1969, and the last were removed Feb. 10, 1971, U.S. forces invaded Cambodia on April 30, 1970.

Harriman, contacted at his home in Yorktown Heights, N.Y., said he had "no recollection of any meeting" at his home here at 3038 N. St. NW. "People used to drop in to see me by engagement, of course," Harriman said. "My views were well known. I was opposed to what was going on."

Retired FBI agent Bernard Wells acknowledged to the Senate committee in closed session that he wrote the May 18, 1970, memo Sullivan sent DeLoach. He said the bureau wanted to identify who attended the meeting at Harri-

man's house, but he denied that agents attempted to overhear what was said.

Wells indicated that the information that there was to be a meeting at the Harriman house came from one of the 17 wiretaps. The date of the 1970 meeting could not be ascertained, and a Foreign Relations Committee aide said that the May 18, 1970, date of the memo did not necessarily represent the date of the FBI surveillance.

The Foreign Relations Committee's edited transcripts indicate that there may have been other instances of physical surveillance during the wiretap program, which the administration started after a series of leaks on national security information. Committee staff aide Norvill Jones alluded to the possibility of another surveillance in one hearing, but gave no details, and Alexander M. Haig Jr., then top deputy to Kissinger, who at that time was Mr. Nixon's national security affairs ad-

vised, testified that "I got the impression that there was some physical surveillance. But I have no precise recollection of why I had that impression."

Thomas J. Smith, an inspector in the FBI's intelligence division, testified that "there was a physical surveillance, apparently we cannot seem to find the origin of it. There were photographs of meetings between (deleted) and some other one of the pressmen involved. We have not been able to tie down precisely what caused that particular surveillance. There is evidence that there was one."

Asked by the committee about physical surveillance, Kissinger said in written testimony "I do not know how the FBI carried out the investigations of the individuals involved, although I do know that in one case the director of the FBI talked about the possible use of physical surveillance. I do not recall receiving any reports mentioning physical surveillance."

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ENCLOSURE

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DIRECTOR, FBI (72-2190)

SAC, WFO (72-194) (P)

REMOVAL OF NATIONAL
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Clt/mr

11/20/74

As Division 6, FBIHQ, is aware, item number 14 of the Watergate Special Prosecutor Office's (WSPRO) memorandum of 10/29/74, requests that investigation be conducted with respect to the following serials located in the Bureau "SPEC OV" file, Bufile 65-75085:

89
119
149
195
305
319
37
69
140
177
53

Serials furnished to SA Horner, WFO
on 11-21-74.
R. W. Horner

Therefore, WFO desires copies of these serials as a necessary aid in conducting the requested investigation.

REQUEST OF THE BUREAU

Division 6 is requested to disseminate a copy of this communication to Division 5 to facilitate the availability of the desired serials.

It is noted that this aspect of the investigation is being coordinated between Bureau Supervisor RUSSELL H. HORNER, Division 5, and SA CHARLES W. HARVEY, WFO. 65-75085-

③ Bureau

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Rockefeller Is Reportedly Contradicted On Wiretapping and C.I.A.'s Chile Role

By SEYMOUR M. HERSH

Special to The New York Times

WASHINGTON, Dec. 2—The House Judiciary Committee has developed evidence contradicting Nelson A. Rockefeller's assertions that he was not privately told of the White House wiretapping and the secret operations in Chile before their newspaper disclosure, well-informed sources said today.

The newly assembled evidence was not viewed as an immediate threat to Mr. Rockefeller's seemingly inevitable confirmation as Vice President, but some House members were known to be preparing to inquire more deeply into his prior testimony on those issues before the Senate and House Judiciary Committees.

In his Senate testimony in September, Mr. Rockefeller denied any prior knowledge of the White House wiretaps on four newsmen and 13 members of Henry A. Kissinger's National Security Council staff and other Federal officials.

In a later written statement submitted to the Senate, Mr. Rockefeller said that "no information concerning any wiretaps was transmitted to me from the President, or from anyone else, in the White House."

According to a memorandum recently circulated among committee members, A. Russell Ash, a former member of the National Security Council and the President's Foreign Intelligence Advisory Board, told House committee investigators six weeks ago of a conversation he held in late-1969 with Mr. Kissinger in which Mr. Kissinger, now the Secretary of State, complained about Mr. Rockefeller's knowledge of the then-secret wiretaps.

Mr. Ash is scheduled to testify tomorrow before the House committee about that conversation with Mr. Kissinger. The committee is expected to complete its hearings on Mr. Rockefeller by the end of the week.

On the Chile issue, Mr. Rockefeller, who received regular intelligence briefings since 1969 as a member of the Foreign Intelligence Board, denied furing testimony last week knowing of any Central Intelligence Agency activities against the Government of Chilean President Salvador Allende Gos-

"The reason I ask you this," said Representative Elizabeth Holtzman, Democrat of Brooklyn, "is because we have been advised that three was a briefing on Chile during the time that you were on the board at a meeting at which you were present, and I wonder whether that refreshes your recollection?"

"I will have to check it," Mr. Rockefeller replied. "It does not refresh my memory."

The sources said that the committee had learned that on

Sept. 18, 1974, just two months before his testimony on Chile, Mr. Rockefeller was reminded by William E. Colby, director of Central Intelligence, of an intelligence board briefing on the Chile operation. The briefing took place in December, 1970.

Mr. Colby's letter to Mr. Rockefeller, who had just been nominated by President Ford to be Vice President, was apparently prompted by the published disclosures in early September about the C.I.A. intervention in Chile.

Hugh Morrow, Mr. Rockefeller's spokesman, acknowledged today that Mr. Rockefeller had been briefed on Chile during an intelligence board meeting in late 1970 but quoted Mr. Rockefeller as saying that the briefing had dealt only with the fall elections there that had been won by President Allende, a Marxist.

"This all hinges on the way Miss Holtzman posed the question," Mr. Morrow asserted. "She asked about events after the election—and he [Mr. Rockefeller] read that to be a question on the so-called 'destabilization' business."

In the initial news accounts of the C.I.A.'s involvement in Chile, Mr. Colby was quoted as telling a Congressional subcommittee that the intelligence agency's goal in Chile was to destabilize Mr. Allende's regime and make it impossible for him to govern. Mr. Colby later denied making such a statement to Congress.

Told of the Rockefeller explanation, Miss Holtzman angrily depicted it as misleading and said that she had purposefully phrased her query in a broad manner to prevent any misunderstanding.

Nonetheless, she said in a brief telephone conversation today, she was "very surprised" at what she termed Mr. Rockefeller's "lapse of memory" about the Chile issue during his testimony last week. "I still haven't had clarification on this matter," she added.

On the wiretap issue, Mr. Morrow said that Mr. Rockefeller would stand on his previous statements indicating that he had obtained no knowledge of the surveillance until newspaper accounts appeared during the Watergate scandal.

The press aide acknowledged, however, that he had not been able today to ask Mr. Rockefeller specifically about Mr. Ash's testimony naming Mr. Kissinger—one of Mr. Rockefeller's long-time associates—as the source for the allegation that Mr. Rockefeller was in fact informed in late 1969 of the tapping.

The issue arose last year when John W. Dean 3d, the former White House counsel, testified before the Senate Watergate committee that William C. Sullivan, a former official of the Federal Bureau of Investigation, had told him that he

had heard the wiretap information had gone to Governor Rockefeller.

A subsequently released White House transcript of a Feb. 28, 1972, meeting between Mr. Dean and President Nixon showed that the two men had discussed an allegation by Mr. Sullivan that J. Edgar Hoover, the former F.B.I. director, had leaked word of the wiretaps to another former F.B.I. aide, J. Patrick Coyne. It was Mr. Coyne, as Mr. Dean depicted it on the tape recording, who relayed the word of wiretaps to Mr. Rockefeller, then the Governor of New York.

During his testimony before the Senate Judiciary Committee, Mr. Rockefeller was asked specifically—and denied—the Dean testimony indicating that he had received information about the illegal wiretaps.

But a staff report of the House committee, made available to The New York Times, summarized an Oct. 24, 1974, interview with Mr. Ash this way.

"Mr. Ash stated that in the early fall of 1969, he was summoned to the office of National Security Council Director, Henry Kissinger. Mr. Kissinger, according to Mr. Ash, told Mr. Ash that Nelson Rockefeller, then a member of P.F.I.A.B., had told him [Mr. Kissinger] that he [Mr. Rockefeller] had been told by J. Patrick Coyne that the F.B.I. had placed wiretaps on the telephones of staff members of the National Security Council."

"According to Mr. Ash," the summary went on, "Mr. Kissinger asked him why this information had been imparted to Governor Rockefeller. Moreover, Mr. Ash recalled Mr. Kissinger asking him if he had any information that Mr. Coyne had, in fact, disclosed the existence of the wiretaps to Governor Rockefeller."

65-75085-A

The Washington Post
NOT RECORDED
Washington Star-News

Daily News (New York)

The New York Times 36

The Wall Street Journal

The National Observer

The Los Angeles Times

Date DEC 3 1974

Mr. Ash also told the staff investigators, according to the summary, that he had not been asked by Mr. Kissinger how—and whether—Mr. Coyne had obtained the information.

In a subsequent staff interview, Mr. Coyne, who served as executive secretary of the intelligence board until his retirement in 1970, denied knowing of the wiretaps or discussing them with Mr. Rockefeller or any other member of the board.

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UNITED STATES GOVERNMENT

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Intell. _____
Laboratory _____
Plan. & Eval. _____
Spec. Inv. _____
Training _____
Legal Coun. _____
Telephone Rm. _____
Director Sec'y _____

TO : Mr. W. R. Wannall *wrw/TJS*

DATE: 9/27/74

FROM : T. J. Smith *TJS*

SUBJECT: SPECOV

Serial 14X of SPECOV (Bufile 65-75085) is incomplete in that it does not include all attachments. This serial is memorandum E. S. Miller to Mr. Felt, dated 5/12/73, captioned "Sensitive Coverage Placed at the Request of the White House," prepared by WRW:bjr and consists of one page with 20 pages of attachments.

Attached hereto is a xerox copy of a complete copy of this memorandum which should be placed in the SPECOV file in order that the records are complete.

Enclosure

65-75085

note Page 5 of was
ench. 5, Both
changed - one
pages are
a Hacked
TJS*

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DATE 5/7/82 BY 78583R/cle/mde

REC *jam*

65-75085-424

18 JAN 29 1975

File 5-TJS

1 - Mr. T. J. Smith

TJS:rfk
(2)

JAN 29 1975 *jam*

UNITED STATES GOVERNMENT

Memorandum

TO : Mr. W. Mark Felt

DATE: 5/12/73

FROM : E. S. Miller

SUBJECT: SENSITIVE COVERAGE PLACED AT THE
REQUEST OF THE WHITE HOUSE

Mr. Felt _____
Mr. Baker _____
Mr. Callahan _____
Mr. Cleveland _____
Mr. Conrad _____
Mr. Gebhardt _____
Mr. Jenkins _____
Mr. Marshall _____
Mr. Miller, E.S. _____
Mr. Soyars _____
Mr. Thompson _____
Mr. Walters _____
Tele. Room _____
Mr. Baise _____
Mr. Barnes _____
Mr. Bowers _____
Mr. Herington _____
Mr. Conmy _____
Mr. Mintz _____
Mr. Eardley _____
Mrs. Hogan _____

Last evening Mr. Walters advised that the Acting Director had requested memoranda concerning each of the five matters listed on the attached page.

Attached hereto are memoranda on items 1, 2, 4, and 5. With respect to item 3, at approximately 3 p.m., 5/12/73, Section Chief T. J. Smith brought to the Intelligence Division the material necessary to prepare a memorandum. This material is being reviewed and a memorandum will be submitted as soon as the review is completed.

ACTION:

The foregoing information and the attachments are submitted to comply with the Acting Director's request.

Enclosures

WRW:bjr
(7)

- 1 - Mr. Eardley
- 1 - Mr. Felt
- 1 - Mr. E. S. Miller
- 1 - Mr. Walters
- ① - Mr. Wanhua
- 1 - Mr. T. J. Smith

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ENCLOSURE 65-75085-424

1. A summary of all we know in the form of a chronological narrative as to when the special project started and how and why, stressing the fact that it was in conformity with established procedures for national security wire taps.
2. We need to cover clearly why we did not previously make any search to recover the records or determine their whereabouts.
3. We need to review, if we can obtain them, all of the summaries now at The White House to determine significance of items therein.
4. We need to fully document our procedures for establishing national security wire taps including all of the mechanics for authorization and filing, monitoring, logs, summaries, etc.
5. Mr. Ruckelshaus requested that research papers be prepared for him on our general policies and history of national security wire taps; on the rationale for the national security justifications for instant project; and any specific justification known to us why the particular individuals involved were targeted.

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1. CHRONOLOGICAL SUMMARY OF SPECIAL PROJECT

Based on recollections of FBI personnel interviewed, supplemented by inquiries of former FBI personnel and others, the following is a chronological summary of all we know concerning the placing of national security wiretaps on newsmen and White House staff members between 1969 and 1971.

Beginning in the Spring or early Summer of 1969, the FBI was requested to institute national security electronic surveillances on certain White House staff members and other individuals for the purpose of identifying the source of leaks of highly sensitive national security information from The White House. It is the recollection of Miss Helen Gandy, secretary of Mr. J. Edgar Hoover, that this request may have originated with General Alexander M. Haig, Jr. General Haig when asked about this on 5/12/73 said only that FBI records should show the origin of the request.

A question regarding the origin of this request was directed to former Assistant to the Director William C. Sullivan in a letter dated 5/10/73. In response, by letter dated 5/11/73, Mr. Sullivan stated, "In regard to the White House, I think it would be most appropriate if this question was addressed to Mr. Haldemen." Mr. Sullivan indicated that thereafter requests for specific wiretaps were made either directly of Mr. Hoover "or indirectly through myself."

In accordance with Mr. Hoover's strict policy of requiring prior approval of the Attorney General before placing any wiretaps, written authorization was secured from the Attorney General in each case. The fact that there were leaks of national security data to unauthorized persons clearly established a basis for authorization solely by the Attorney General under procedures delineated under Title 18, U.S.C., 2511(3), relating to constitutional authority of the President to authorize warrantless wiretaps in cases relating to the national security. In this connection, subsequent ruling by the Supreme Court in the Keith decision 6/19/72 restricted Presidential authorizations to only those cases where there is substantial foreign direction or control. However, under the law at the time in question, i.e., 1969-1971, the Keith decision was not in force.

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While a national security wiretap is normally requested of the Attorney General by the FBI after a rationale is developed which will justify the request, in the case in point the request originated in The White House and the fact that assurance was given by The White House that each wiretap was for national security purposes and was approved as such by the Attorney General was sufficient ground for the FBI to install it as requested. While the individual bases or rationale is not known at this time, the fact that the FBI received an official request for a national security wiretap, even without rationale being stated, would be deemed an order. No official of the FBI, past or present, would likely have refused to install a wiretap at the request of a high-level White House official on the basis of national security interest, particularly when each such request was backed up by specific approval of the Attorney General.

Leaks of classified data to unauthorized persons is a violation of the Espionage Statute (Title 18, U.S.C., 793).

From the outset of placing these White House-requested electronic surveillances, the FBI maintained the highest possible security with respect to knowledge of them and all knowledge and handling of these surveillances were restricted to only those FBI employees essential to the operation on a need-to-know basis. Such security precautions were at the specific request of The White House.

Security measures also involved the keeping of special records, separate and apart from other FBI records. This was accomplished by having all permanent records maintained in the personal custody of former Assistant to the Director W. C. Sullivan. In the Washington Field Office, where the monitoring of the electronic surveillances occurred, a tape recording was made and a written log was transcribed from the tape and the tape was subsequently erased. The single copy of the written log was hand carried on a daily basis to Mr. W. C. Sullivan. No records or indices whatsoever were maintained in the Washington Field Office. This procedure is not normal with respect to the installation, monitoring and logging of national security electronic surveillances, but was deemed in the best interest of the Government at the time.

When the logs were received by Mr. Sullivan, they were analyzed by former SA B. A. Wells and information deemed of value to The White House was summarized into letters over Mr. Hoover's signature and delivered to The White House. According to

Mr. Sullivan, the letters were sent for some time to the President and Dr. Kissinger, but later were sent only to Mr. H. R. Haldeman. Mr. Sullivan recalls that Mr. Haldeman began getting results of the wiretaps following a meeting at The White House in May, 1970, where this matter was discussed. The President, Mr. Hoover, and Mr. Haldeman participated in this meeting.

Based purely on the several recollections of FBI personnel, the following list of individuals on whom electronic surveillances were installed between 1969-1971 was reconstructed:

Henry Brandon, London Sunday Times
Dr. Morton Halperin, National Security Council (later
went to Brookings Institution)
Tony Lake, National Security Council
Helmut Sonnenfeldt, National Security Council
Daniel Davidson, National Security Council
William Safire, National Security Council
Winston Lord, National Security Council
Col. Robert Pursley, was in Secretary Laird's Office,
later was military aide to Vice President
Marvin Kalb, Radio-TV news commentator, News Service
William Beecher, New York Times
Hedrick Smith, New York Times
Ambassador Richard F. Pedersen, State Department
Ambassador William Sullivan, State Department
John Patrick Sears, formerly in Nixon-Mitchell law
firm, worked on Nixon campaign, later employed in
Executive Office Building, was disenchanted
James W. McLain, was at Health, Education and Welfare,
went to White House as Robert Finch's assistant
Richard Moose, National Security Council

According to information developed in October, 1971, these wiretaps existed over varying periods of time from the Spring of 1969 to about the first of June, 1971. No more than eight were on at any one time, and usually a new one was placed as an old one was removed. Among the first installed were those on Sonnenfeldt, Halperin, Lake and Sears.

The wiretap on Brandon was placed about the Spring of 1970 and remained on until all were discontinued in 1971. The ones on Smith, Halperin, Kalb, and possibly Lord, were also believed to have remained on for a long period of time and were among those discontinued in 1971.

Sealed pursuant to U.S. Court
Order

Former SA Wells could not recall any specific conversations which he received. He said that he could generalize to the extent that in all of the wiretaps the individual and [redacted] talked [redacted]

[redacted] Mr. Sullivan considered the wiretaps to be very helpful in some cases but of little or no value in other cases.

With specific reference to overhearings of conversation: OTHER

[redacted] n

Former SA Wells, who analyzed all of the logs, recalled one instance in which the name Ellsberg appeared in the logs. He could not recall which log was involved but he thinks it may have been a Halperin log. He said that in early June, 1971, as best as he could recall, on Sullivan's instructions he reviewed all of the logs and determined that Ellsberg was not a party to any telephone conversation. He neither made a call nor received one according to Wells.

All of the taps were discontinued in latter May or early June, 1971. One possibility for the discontinuance at that particular time was the fact that Mr. Hoover testified before the Senate Subcommittee on Appropriations 6/24/71 and some apprehension might have been felt that he would reveal the existence of White House-requested wiretaps during this testimony.

As stated heretofore, all records in the FBI relating to the wiretaps operated for The White House 1969-1971 were in the protective custody of Mr. W. C. Sullivan. Sometime in August, 1971, Mr. Sullivan turned over all of these records to Mr. Robert C. Mardian, former Assistant Attorney General, Internal Security Division, Department of Justice.

According to Mr. Sullivan's version, the records were turned over to Mr. Mardian on Presidential and Attorney General request, following a discussion in depth with Mr. Mardian relative to security and possible abuses of the material. He did not describe why the records would be more secure in the possession of another agency than in possession of the FBI, nor did he elaborate on the statement regarding possible abuses. It is to be noted, however, that at the time Mr. Sullivan and Mr. Hoover were engaged in a bitter dispute over various policies of the FBI and there were indications that Mr. Sullivan was in open rebellion against Mr. Hoover.

According to Mr. Mardian, Sullivan approached him sometime in July, 1971, saying that he was in trouble with Mr. Hoover and might even be fired. He said he had wiretap information "out of channel" which he wanted to turn over to the President of the United States. The reason Sullivan gave for his action was that Mr. Hoover could not be trusted with this wiretap information; that Mr. Hoover had used wiretap information to blackmail other Presidents; and that Sullivan was afraid he could blackmail Mr. Nixon. Sullivan asked Mardian to contact the President personally on the matter.

Mardian said that he refused, pointing out to Sullivan that he was responsible to the Attorney General and that any such matter should be discussed with the Attorney General. Mardian said that he subsequently informed the Attorney General of Sullivan's request and the Attorney General indicated he would handle the matter.

Mardian advised he subsequently was instructed directly by the President to get the wiretap material from Sullivan and check it against material previously disseminated by the FBI to The White House. Mardian conveyed the instructions to Sullivan, who then arranged for delivery of the material to him. This was about mid-August, 1971. Mardian kept the material in his office about two days before getting a call from The White House to deliver it to The White House, which he did immediately.

At The White House the FBI material was checked against material, in possession of Dr. Kissinger and Mr. Haldeman, previously furnished by the FBI to The White House. As best as Mardian could recall, it was determined that perhaps two summaries previously given to Mr. Haldeman at The White House were not then among Haldeman's material. Dr. Kissinger's material was all

accounted for. During the audit of Kissinger's material, Dr. Kissinger, General Haig, and Mardian were present. Mardian said he left the check list with Mr. Haldeman and after the latter completed his check Mardian took the material into the Oval Room but declined to say to whom he gave it.

William C. Sullivan retired from the FBI effective 10/6/71. Just prior to his departure, Sullivan was asked where the wiretap information he had been keeping in protective custody was located. Sullivan replied that the material had been sent to the "other building," implying that it had been sent to the Domestic Intelligence Division in the Federal Triangle Building. Mr. Mardian's office was also located in that building. A search was then made of Domestic Intelligence Division space; however, the records were not to be found. A search was also made in Sullivan's office, without his knowledge, but the records were not found.

It was determined after Sullivan's departure that the wiretap records had been seen about two weeks earlier in the possession of Mr. Mardian. Mardian was asked concerning the missing records; however, he replied that he could not discuss the matter on instructions of the Attorney General and he suggested that Mr. Hoover contact the Attorney General.

Mr. Hoover did contact the Attorney General on 10/2/71, and the Attorney General said that Mr. Mardian had assured him that the wiretap material had been destroyed. The Attorney General said that Mardian had told him that Mr. Hoover had approved of Mardian's taking possession of the material. Mr. Hoover noted that this was a lie.

According to a log dated 10/5/71 of significant events occurring at that time, which was attested to by Mr. Hoover, correspondence confirming the information furnished to the Director by the Attorney General concerning the destruction of the wiretap records was sent to the Attorney General and separate correspondence was sent to Mr. Haldeman at The White House advising of these circumstances. Copies of this correspondence cannot be located either in FBI records or in the former Director's records.

On instructions of Mr. Hoover, Deputy Associate Director W. Mark Felt launched an inquiry concerning the missing records and Assistant Director E. S. Miller and Section Chief Thomas J. Smith assisted. Specifically, an effort was made to reconstruct the records at least to the point of knowing on whom electronic surveillances had been placed during the pertinent period.

Through contact with Supervisor [REDACTED], Washington Field Office, Mr. Smith identified 16 individuals on whom electronic surveillance coverage had been placed between 1969 and about June, 1971. The list set forth herein is the list developed at that time. Beyond exhaustive physical searches of space under control of the FBI and interviews of Sullivan, Mardian, and the Attorney General, no additional effort was made to locate the missing records, in light of the statement by the Attorney General to Mr. Hoover that the records had been destroyed. Such was the state of the matter at the time, 2/26/73, of the Time magazine article (3/5/73 issue) alleging that newsmen and White House staff members had been wiretapped. At this point a memorandum dated 2/26/73 was prepared for former Acting Director Gray setting out the known details of the missing records. Mr. Gray had previously been advised of these circumstances. b6 b7C

Since the product of the wiretaps in question was not channeled into regular FBI files or investigative channels, it was not the source of any FBI investigation whatsoever. Since the names of those wiretapped and those overheard as result of wiretaps were not indexed anywhere in FBI files, it would not have been possible to search FBI records and determine if any of those persons had ever been the subject of an electronic surveillance overhearing.

With specific reference to the electronic surveillance of Dr. Morton Halperin, it must be borne in mind that although the state of FBI records are such to preclude any possibility of determining if he was the subject of one of the electronic surveillances requested by The White House between 1969 and 1971, the first request of the court for a search of electronic surveillance records established a time frame for such search to begin in November, 1971, some months after The White House-requested wiretaps were discontinued. A subsequent, updated request moved the time frame back to 1967, and our records did disclose two overhearings, nonpertinent in any way whatsoever to the Pentagon Papers case, as result of our foreign intelligence electronic surveillance coverage. These two intercepts were in 1969 and 1970.

News media reports on 5/4/73 again carried stories alluding to alleged wiretapping of newsmen and White House staff members and in conference with Mr. Ruckelshaus on the same morning he was advised of the general circumstances surrounding the missing records. Mr. Ruckelshaus thereupon, on 5/4/73, ordered a full and complete investigation, with a specific goal of attempting to

establish the existence or nonexistence of the missing records; to attempt to retrieve them if they have not been destroyed; and to attempt in any event to reconstruct from the past recollections of current and former FBI employees, any knowledge they may still retain concerning the identities of persons wiretapped, the substance of conversations monitored and all other information which would enable the FBI to respond to the court instructions.

2. PREVIOUS SEARCH TO RECOVER RECORDS

Beginning on 9/30/71, shortly before the effective date of retirement of former Assistant to the Director William C. Sullivan, efforts were begun to locate the records entrusted to his care relating to White House-requested electronic surveillance coverage of newsmen and White House staff members.

Sullivan, who was uncooperative in the effort due to a bitter dispute between him and Mr. J. Edgar Hoover, at first maintained that the records were in space controlled by the FBI, but on 10/5/71, admitted that he had sent the records to Mr. Robert C. Mardian about three months previously. He claimed that this was at Mardian's request. Sullivan refused to discuss the matter further, saying only that any further discussion concerning the records would have to be between the Director of the FBI and Attorney General Mitchell, who was completely familiar with the matter.

Mr. Mardian was contacted concerning the records, and he replied that the Director would have to discuss the matter with the Attorney General. Mr. Hoover contacted the Attorney General, who assured him the missing records had been destroyed.

Following the assurance given to Mr. Hoover by the Attorney General that the records had been destroyed, no effort was made to verify Mr. Mitchell's statement. To have ignored the assurance given to Mr. Hoover by the Attorney General as to the destruction of the records and continued efforts to locate them would have constituted insubordination on the part of Mr. Hoover, particularly since we had no reason to question the Attorney General's statement at the time.

In light of the circumstances existing at the time, no reason existed for doubting the veracity of the Attorney General, and it is noted even though copies of the correspondence cannot be located, a log in the files of the FBI reveals that Mr. Hoover confirmed his conversation with the Attorney General concerning destruction of the records, and advised Mr. H. R. Haldeman at The White House of the circumstances.

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The file copies of this correspondence were not found in Mr. Hoover's personal effects or official papers following his death, the correspondence is referred to in a log of significant events occurring during the period between 9/30/71 and 10/5/71, and Mr. Hoover attested to the facts in the log by making certain notations thereon.

4. PROCEDURES FOR ESTABLISHING NATIONAL SECURITY ELECTRONIC SURVEILLANCES INCLUDING MECHANICS FOR AUTHORIZATION AND FILING, MONITORING LOGS, SUMMARIES, ETC.

When an investigating case Agent in a field office reaches a conclusion that an electronic surveillance is essential to the investigation of a national security case, he will prepare a memorandum setting forth all facts which support and justify that conclusion. The Agent's supervisor will carefully review the memorandum and if he agrees will approve it and send it to the Special Agent in Charge of the field office.

If the Special Agent in Charge approves of the suggested electronic surveillance, he will forward it to FBI Headquarters where it will be examined in detail by the Headquarters case supervisor. If the supervisor approves of the recommendation, he prepares a memorandum in which he will add observations of his own, and will enclose a proposed letter to the Attorney General requesting approval for the electronic surveillance. This memorandum and enclosure is then sent to the Chief of the Section for his approval and then to the Branch Chief where it is again reviewed before forwarding to the Assistant Director of the Intelligence Division.

If the Assistant Director then approves, he forwards the documents to the office of the Associate Director where the memorandum and enclosure will again be subject to critical review. If the Associate Director approves, the documents will then be sent to the Director of the FBI. If the Director of the FBI approves, he will send the letter requesting the electronic surveillance to the Attorney General, who will either approve or disapprove the request. At any step of the way, from the field supervisor to the Director of the FBI and the Attorney General, the recommendation for an electronic surveillance can be disapproved because the reviewing official feels there is insufficient justification to warrant the placing of an electronic surveillance.

If the Attorney General approves the request, he returns to the FBI a memorandum authorizing the electronic surveillance. In no case involving national security is this authorization for a period in excess of 90 days from the date it is authorized. Upon receipt of the authorization, FBI Headquarters then advises the field office to proceed with the installation of the electronic

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surveillance. A letter is also signed by the Director of the FBI requesting the local telephone company to install a leased telephone line from the point of interception to the location where the surveillance is monitored. When the electronic surveillance is installed, the field office advises FBI Headquarters and the Director of the FBI then advises the Attorney General by memorandum that the electronic surveillance which he had previously authorized has been installed on a given date. This same procedure is followed when the electronic surveillance is discontinued.

When the Attorney General authorizes an electronic surveillance and the investigating case Agent in the field concludes it is productive and essential and should be continued past the 90-day authorization period, he again initiates a memorandum to his supervisor setting forth what has been gained through the use of the electronic surveillance and why it is essential that it be continued for another 90-day period. This memorandum is then forwarded for approval through the same channels as the original request and another letter is sent from the Director, FBI, to the Attorney General informing him what has been gained by the installation of the electronic surveillance and the reasons it is essential that it be continued for another 90 days. If the Attorney General approves, he forwards to the FBI another memorandum authorizing the surveillance for an additional 90-day period. Thus, while every electronic surveillance is in operation, its justification is reviewed each 90 days at all supervisory levels of the FBI culminating with the approval of the Attorney General.

Electronic surveillances are also initiated in another manner, however. A request might come from another Government agency for a national security electronic surveillance. Normally such requests would be received at the desk of a Headquarters supervisor, who will prepare a memorandum and proposed letter to the Attorney General and the same course of action previously referred to will be followed with respect to review and approval by the Section Chief, Branch Chief, Assistant Director of the Intelligence Division, the Associate Director, and the Director. These surveillances are also only for a 90-day period and a request for continuance is made each 90 days, if warranted, by the other agency.

All correspondence and documents relating to electronic surveillances are maintained in a special file room at FBI Headquarters with the exception of the authorization memoranda signed by the Attorney General, which are filed in the office of the Associate Director of the FBI.

Electronic surveillances are monitored under extremely secure conditions and in areas isolated from normal FBI activity. Conversations are recorded on tapes and the tapes are then reviewed. Information contained on tapes is entered into a chronological log. Nonpertinent conversations are entered with a brief notation as to the identities of individuals involved and the nature of the conversations. Pertinent conversations are summarized and entered into the log.

The log is then reviewed, usually by the investigating case Agent, and if deemed warranted a verbatim transcription is requested and made. Otherwise, the Agent accepts the log as adequate and the tape is erased within two weeks.

The investigating case Agent will thereafter prepare documents containing, among other investigative results, pertinent information obtained through the electronic surveillance. This data, however, will be suitably paraphrased, attributed to a confidential source and, if necessary, appropriately classified in order to protect the source of the information. Sufficient copies of the documents are prepared for dissemination to Federal agencies who have a need to know. All correspondence and documents including the logs relating to electronic surveillances are maintained in a special file room in the field office.

It is to be noted, however, that those documents (teletypes, letters, reports or memoranda), wherein investigative information obtained from an electronic surveillance is paraphrased and attributed to a confidential source, are not filed under special conditions but rather they are filed in the substantive investigative files. This is true both in the field as well as at FBI Headquarters.

Special electronic surveillance indices, known as elsur indices, are maintained both in field offices and at FBI Headquarters of the identities of all persons overheard if the identities can be determined. These indices are searched upon request of the Department of Justice when disclosure motions are made by the defense, in civil suits alleging trespass by the FBI, and in important cases in which the Department is considering prosecutive action and such a search is deemed desirable prior to making a decision to proceed with prosecution. The FBI furnishes the results of its checks of the elsur indices to the Department which in appropriate instances furnished the results of the FBI checks via affidavit to the court for in camera inspection.

May 14, 1973

NATIONAL SECURITY ELECTRONIC SURVEILLANCES

History of FBI Policy

The FBI uses electronic surveillance techniques on a highly selective basis and only with the tightest administrative controls. As a matter of fact, wiretapping by FBI Agents was strictly forbidden from 1924 to 1931 when Attorney General William D. Mitchell specifically authorized the use of this technique by the Bureau in cases involving kidnaping, the apprehension of desperate criminals, and the investigation of espionage, sabotage or other matters of major importance. In response to this Departmental ruling, the late Director J. Edgar Hoover advised the Attorney General in December, 1931, that all instances involving the proposed use of wiretaps by the Bureau would be forwarded to the Department for its approval. This policy has remained in effect since 1931.

Prior to these instructions from Attorney General William D. Mitchell, the United States Supreme Court had held that the use of evidence obtained by wiretapping did not violate the Fourth Amendment when there was no trespass on defendant's premises and, further, that only "material" objects are subject to seizure and a telephone conversation is not such an object.

During 1934 the Congress enacted the Federal Communications Act which contained provisions (Section 605) making it a criminal offense for anyone to intercept a wire communication and divulge or publish such intercepted communication without the authorization of the sender. However, the Department of Justice ruled that this statute did not preclude wiretapping by the FBI and that no violation of Section 605 was involved unless there was a disclosure of the intercepted communication.

Following a series of cases heard by the U.S. Supreme Court during the late 1930s in which the Court held that the Federal Communications Act of 1934 prohibited the introduction of evidence obtained through wiretapping,

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TELETYPE UNIT ☐

ENCLOSURE

15-75085-424

Mr. Felt _____
Mr. Baker _____
Mr. Callahan _____
Mr. Cleveland _____
Mr. Conrad _____
Mr. Gebhardt _____
Mr. Jenkins _____
Mr. Marshall _____
Mr. Miller, E.S. _____
Mr. Soyars _____
Mr. Thompson _____
Mr. Walters _____
Tele. Room _____
Mr. Baise _____
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Mr. Herington _____
Mr. Conmy _____
Mr. Mintz _____
Mr. Eardley _____
Mrs. Hogan _____

Attorney General Robert H. Jackson in March, 1940, banned the use of wiretapping by the FBI and stated he would no longer authorize this procedure unless Congress modified existing statutes. Mr. Jackson's action was taken, in fact, upon the recommendation of the Director of the FBI.

However, on May 21, 1940, President Roosevelt directed a memorandum to Attorney General Jackson which established the guidelines which governed wiretapping by Federal agencies until passage of the Omnibus Crime Control and Safe Streets Act of 1968. In this historic memorandum, President Roosevelt expressed the conviction that Supreme Court decisions relating to wiretapping were not intended to apply to grave matters involving the defense of the Nation. The President took cognizance of the activities of so-called "Fifth Columns" and the necessity for the Government to protect itself against sabotage, assassinations, and other "Fifth Column" activities. President Roosevelt declared that the Attorney General had the authority to approve the use of "listening devices" by Federal investigative agents to secure information regarding the activities of persons suspected of subversive activities against the U. S. Government, including suspected spies.

During February, 1941, President Roosevelt wrote to Congressman Thomas Eliot of Massachusetts and expressed his views on a bill then pending before Congress to allow wiretapping by Federal officials. In this letter President Roosevelt asserted his belief that wiretapping should not be used by the Government in criminal cases other than kidnaping and extortion matters. He reiterated his conviction that wiretapping should be used in cases involving espionage or sabotage against the United States. The President further indicated no wiretaps should be installed by Federal agents without the explicit authority of the Attorney General.

On July 17, 1946, President Truman reaffirmed President Roosevelt's policies concerning the use of wiretapping and succeeding Presidents and Attorneys General continued these policies.

Throughout the entire time since 1931, the FBI has consistently obtained specific authorization from the Attorney General with regard to all instances involving the use of wiretapping by the Bureau.

Omnibus Crime Control and Safe Streets Act of 1968

Title III of the Omnibus Crime Control and Safe Streets Act of 1968 took cognizance of the long-recognized power of the President to authorize electronic surveillances in the security field and specifies that the Act shall not limit this power.

As previously stated, prior to Title III of the Omnibus Crime Control and Safe Streets Act of 1968, and the Keith decision, June 19, 1972, the law that developed around electronic surveillances concerned itself primarily with the admissibility of evidence obtained from electronic surveillances rather than with the basic issue of the "legality" of electronic surveillance itself. Evidence, including leads to evidence, gathered via wiretapping was excluded from any criminal prosecution on the basis that presentation of such evidence was a "disclosure" prohibited by Section 605 of the Federal Communications Act; and evidence, including leads to evidence, obtained from a microphone surveillance or a wiretap was excluded if it was determined the installation required a "trespass" and was thus an unlawful search and seizure.

Title III, however, established the Congressional intention that electronic surveillance, under specific conditions, is to be lawful and the evidence obtained therefrom admissible.

Title III also, while not conferring any statutory authority on the President, indirectly recognized that he was authorizing warrantless electronic surveillances in matters affecting national security and stated that Title III did not affect any such powers he might have. The Act recognized specific categories for electronic surveillances in foreign-related intelligence matters. These categories were as follows:

To protect the Nation against actual or potential attack or other hostile acts of a foreign power;

To obtain foreign intelligence information deemed essential to the security of the United States;

To protect national security information against foreign intelligence activity;

To protect the United States against the overthrow of the Government by force or other unlawful means;

Or against any other clear and present danger to the structure or existence of the Government.

Additional guidelines were established with respect to Federal wiretapping in the internal security field by the Supreme Court's Keith decision in which the U. S. District Court, Eastern District of Michigan, in a memorandum opinion dated January 25, 1971, found that the Government's use of a wiretap without a warrant in a domestic security case was illegal. The case involved three defendants, members of the White Panther Party, who were charged with conspiracy to bomb a CIA office at Ann Arbor, Michigan, on September 29, 1968. In pre-trial proceedings the defendants filed a motion for the disclosure of electronic surveillance information. The Government acknowledged that one of the defendants had participated in conversations which were overheard by Government agents and furnished for the judge's inspection only the surveillance logs.

The Michigan Court rejected the idea that the President has constitutional powers to authorize electronic surveillances without a warrant in dealing with domestic security matters. The defendants were granted full pre-trial discovery of the wiretapping logs in this case and the Government was so ordered to produce. This decision was appealed. On April 4, 1971, the U. S. Circuit Court of Appeals for the Sixth Circuit upheld the lower court ruling; but in ruling against the Government, the Circuit Court said that in dealing with the threat of only domestic subversion the Executive Branch was subject to the limitations of the Fourth Amendment in using wiretaps. The Circuit Court held that the District Judge properly found that the defendant's conversations were illegally intercepted and the order of disclosure was proper. The Supreme Court subsequently ruled against the Government stating that electronic surveillances of domestic organizations and their members "with no significant connection with a foreign power" was a violation of Fourth Amendment rights.

Since the Keith decision the status of Federal law on electronic surveillances in the national security field can be summarized as follows: With regard to domestic individuals and organizations the President has no warrantless power to authorize such electronic surveillances. He may have the power to subject such targets to electronic surveillance, but these electronic surveillances must be submitted for prior judicial review, i.e., a warrant, before installation. With respect to foreign individuals and organizations the legality and admissibility of evidence issues have not yet been directly considered by the Supreme Court. The issue of "legality," based on whether prior judicial review is

required (key issue in Keith), was resolved in the Government's favor by the United States District Court, District of New Jersey, in United States versus Ivanov. Following an ex parte, in camera inspection of the surveillance logs by the District Court and argument on the legality issue by the parties, the Court sustained the authority of the Attorney General to acquire foreign intelligence information by warrantless electronic surveillance. The same issue is currently under advisement by the United States Court of Appeals for the District of Columbia Circuit in the case of United States versus Enten. In Keith, the Supreme Court specifically noted that two lower courts and the United States District Court, Central District of California, had held that "warrantless surveillance...may be constitutional where foreign powers are involved."

Subsequent to the Keith decision the Department of Justice issued the opinion that the President, under his constitutional authority to protect the States against invasion, and to conduct foreign relations, has the power to authorize electronic surveillances to develop foreign intelligence.

Also as a result of the Keith decision, the Department of Justice interpreted "significant connection" to include such factors as substantial financing, control by or active collaboration with a foreign government and agencies thereof in unlawful activities directed against the United States Government.

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Consequently, this area is still in limbo, the same condition as prior to Title III and Keith. Until Ivanov and Enten are decided by the Supreme Court, the Government, to be safe, must be willing to sacrifice a criminal prosecution to obtain the electronic surveillance intelligence.

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As a result, all national security electronic surveillances now in effect are clearly related to foreign intelligence.

Value of Electronic Surveillances

Electronic surveillance coverage in foreign intelligence matters is essential to provide the FBI with coverage on matters involving actual or potential threats to United States interests at home and abroad. While every effort is made to utilize other investigative techniques to develop significant information in the area of our foreign intelligence responsibilities, it is not possible to reduce information gaps to a minimum without a resort to electronic surveillances. This technique often provides us with

intelligence data that cannot be obtained in any other fashion. Through this technique we are able to analyze routines and spot patterns indicative of intelligence activity. Knowledge of the contacts of intelligence personnel often leads to the identification of security risks as well as possible FBI sources to be used against such personnel.

Publicity Given to this Technique

Electronic surveillances will continue to be of value, however, only so long as the subjects thereof remain unsuspecting. In such matters absolute secrecy becomes paramount. This secrecy must be maintained despite developments in recent years relating to public disclosure of the technique.

Certain elements of our society have created an atmosphere of near hysteria on the subject of wiretapping. This fear of intrusion has become endemic to our society. An idea has pervaded the public mind that Government wiretaps are widespread, wholesale and indiscriminate. Nothing could be further from the truth.

Considering the size of the population of the country and its foreign involvements, FBI use of electronic surveillances is miniscule.

Rationale for and Targeting of Electronic Surveillances On White House Personnel

With regard to the rationale respecting the White House-ordered electronic surveillances during the 1969-1971 period, General Haig was interviewed by Bureau Agents on May 11, 1973, and advised that from the very beginning (1969), as soon as a high-level, sensitive conference was held, details of it appeared immediately in the press. According to General Haig this was a problem then and it continues to be a problem to the present time. This concerned and upset high-level officials at the White House, particularly himself and Dr. Kissinger. With respect to targets of these electronic surveillances, General Haig said they zeroed in on people who had attended a particular conference where some item of sensitive information had been discussed and which immediately thereafter had appeared in the press. Individuals were also targeted who in their daily responsibilities handled some of these particular items.